DIVISION IV OVERLAY DISTRICT REGULATIONS

Chapter 21.52 Introductory Provisions

Sections:

21.52.010 Purpose and applicability

21.52.010 Purpose and applicability

- A. The provisions of the overlay districts in this Division supplement the underlying zoning district regulations in order to support the purposes of each overlay district.
- B. The provisions of the overlay districts apply to all land designated by the overlay or overlays on the City of Annapolis Zoning District Map.
- C. The provisions of the overlay district shall control in the event of conflict with any underlying zoning district regulation.

Chapter 21.54 Critical Area Overlay

Sections:

21.54.010	Purpose
21.54.020	Map
21.54.030	Enforcement
21.54.040	Applicability
21.54.050	Definitions
21.54.060	Development requirements generally
21.54.065	Buffer exemption areas
21.54.070	Subdivision in Buffer Exemption Areas
21.54.080	Development requirementsIntensely developed areas
21.54.090	Development requirementsLimited development areas
21.54.100	Development requirementsResource conservation areas
21.54.110	Water-dependent facilities
21.54.120	Habitat protection
21.54.130	Site design plan review
21.54.140	Change of area designation
21.54.150	Grandfathering provisions
21.54.160	Variances
21.54.170	Administrative variances
21.54.180	Variances in conjunction with subdivisions
21.54.190	Appeals

21.54.010 Purpose

The purpose of the critical area overlay district is to foster more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats. This district is consistent with and supports the state critical area law and critical area criteria as well as the city of Annapolis critical area program.

21.54.020 Map

The location and boundaries of the critical area overlay district and the included boundaries of the intensely developed areas, limited development areas, resource conservation areas, and buffer exempt areas are set forth on the zoning map entitled "City of Annapolis Critical Area Map" which is incorporated in this section and made a part of this Zoning Code. The map, together with everything shown on the map and all amendments to the map, is as much a part of this Code as though fully set forth and described in this Code.

21.54.030 Enforcement

No permit shall be issued for any use of land unless the Planning and Zoning Director, with the concurrence of the Director of Public Works, finds that the use conforms to the requirements of this chapter.

21.54.040 Applicability

The critical area overlay district is an overlay district. As such, the provisions in this section shall serve as a supplement to the underlying zoning district regulations. The uses, minimum lot requirements, minimum yard requirements, maximum height, accessory uses, signs and parking requirements shall be determined by the regulations applicable to the district or districts over which the critical area district is superimposed. Where a conflict exists between the provisions of this chapter and those of any underlying zoning district, the more restrictive provisions shall apply.

21.54.050 Definitions

- A. The following definitions shall be used in the interpretation and administration of the city of Annapolis critical area program:
 - 1. "Afforestation" means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.
 - 2. "Buffer" means a naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from manmade disturbances. This is the area which is a minimum one hundred feet landward from the mean high water line of tidal waters, tributary streams and tidal wetlands.
 - 3. "Cluster development" means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.
 - 4. "Community piers" means boat docking facilities associated with subdivisions and similar residential areas, and with condominium apartment, and other multiple-family dwelling units.
 - 5. "Conservation easement" means a non-possessing interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.
 - 6. "Critical area" means all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
 - a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
 - b. All land and water areas within one thousand feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
 - c. Modifications to these areas through inclusions or exclusions proposed by the city of Annapolis and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
 - 7. "Density" means the number of dwelling units per acre within a defined and measurable area.

- 8. "Developed woodlands" means those areas of one acre or more in size which predominantly contain trees and natural vegetation and which also include residential, commercial or industrial structures and uses. Within the city of Annapolis, developed woodlands are further defined as those areas where greater than half of the area extent consists of a recognizable canopy of mature species typical of a climax stage of forest succession.
- 9. "Development activities" means the construction or alteration of residential, commercial, industrial, institutional or transportation facilities or structures.
- 10. "Forests" means biological communities dominated by trees and other woody plants covering a land area of one acre or more. Within the city of Annapolis, forests exist as isolated, undeveloped tracts dominated by mixed deciduous and coniferous species generally at climax stage. Undeveloped drainage areas and steep slopes dominated by a variety of trees and other woody plants at various successional stages are also considered forests.
- 11. "Impervious surface" means those areas which do not have a vegetative cover with a natural soil substrate or a stormwater management reservoir.
- 12. "Intensely developed areas" means those areas where residential, commercial, institutional and/or industrial developed land uses predominate, and where relatively little natural habitat occurs.
- 13. "Land-disturbing activity" means those activities that involve land surface and/or subgrade that are altered from existing conditions and that are regulated under Titles 14, 15, 17, 19, 20 and 21 of the city code.
- 14. "Limited development areas" means those areas which are currently developed in low-intensity or moderate-intensity uses. They also contain areas of natural plant and animal habitats.
- 15. "Marina" means any facility for the mooring, berthing, storing or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.
- 16. "Mean high water line" means the average level of high tides at a given location.
- 17. "Natural features" means components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life and wildlife.
- 18. "Natural parks" means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.
- 19. "Natural vegetation" means those plant communities that develop in the absence of human activities.
- 20. "Nature-dominated" means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human intervention.
- 21. "Nontidal wetlands" means those lands in the critical area excluding tidal wetlands regulated under Title 9 of the Natural Resources Article, Annotated Code of Maryland,

where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season, and which are usually characterized by one or both of the following:

- a. At least periodically, the lands support predominantly hydrophytic vegetation; and
- b. The substrate is predominantly undrained hydric soils. Excluded from this definition are manmade bodies of water whose purpose is to impound water for agriculture, water supply or recreation, or bodies of water which are inadvertently created during the construction process.
- 22. "Offsets" means structures or actions that compensate for undesirable impacts.
- 23. "Physiographic features" means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.
- 24. "Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.
- 25. "Project approval" means the approval of development, other than by a federal, state or local government agency, in the critical area by the city of Annapolis. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and special exception permits; and issuance of grading, building and zoning permits.
- 26. "Redevelopment" means the expansion, significant rehabilitation or reconstruction or substantial improvement of any structure on a site which has previously been built upon. The construction or structures on previously undeveloped land or land on which structures have been demolished for the purposes of replacement development is not considered redevelopment.
- 27. "Resource conservation areas" means those areas which are characterized by nature-dominated environments (i.e., wetlands, natural drainage areas for wetlands, forests, developed woodlands).
- 28. "Riparian habitat" means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines and wetlands.
- 29. "Tributary streams" means those perennial and intermittent streams in the Critical Area which are so noted on the most recent U.S. Geological Survey 7½ minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdictions.
- 30. "Water-dependent facilities" means:
 - a. those structures or accessory buildings associated with maritime, recreational, educational or fisheries activities that require location at or near the shoreline;
 - b. an activity that cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation.
- 31. "Water-dependent structures (maritime)" means those structures or accessory buildings associated with maritime activities involving seafood industrial, in-water boat storage or

- marine fabrication use that, in the determination of the director of planning and zoning, require location within one hundred feet of the bulkhead or mean high water line for efficiency of operation.
- 32. "Wildlife corridor" means a strip of land having vegetation that provides a safe passageway for wildlife.
- 33. "Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals in the critical area.

21.54.060 Development requirements generally

- A. Intense development should be directed outside the critical area. If intense development is proposed in the critical area, it shall be directed toward the intensely developed areas.
- B. Proposed low-intensity and moderate-intensity development may be permitted in the limited development areas, but shall be subject to strict regulation to prevent adverse impacts on habitat or water quality.
- C. Development shall be limited in the resource conservation areas, which shall be chiefly designated for habitat protection.
- D. The following new development or redevelopment uses shall not be permitted in the district:
 - 1. Non-maritime heavy industry;
 - 2. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters;
 - 3. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities;
 - 4. Solid or hazardous waste collection or disposal facilities; or
 - 5. Sanitary landfills.

E Buffer

- 1. New development activities, including structures; roads, parking areas and other impervious surfaces; septic systems; accessory uses, including but not limited to swimming pools; and the substantial alteration of existing facilities or structures shall not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.
- 2. New construction on recorded lots, under the grandfathering provisions of Section 21.54.150, shall be designed and sited in such a fashion that if the buffer is impacted, the applicant shall obtain a variance in accordance with Section 21.54.160.
- 3. The buffer shall be expanded beyond one hundred feet to include contiguous sensitive areas such as steep slopes, hydric soils, or highly erodible soils whose development or disturbance may impact streams, wetlands, or other aquatic environments. In the case of

contiguous slopes of fifteen percent or greater, the buffer shall be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater in extent.

F. Subdivision Access.

- 1. New public streets developed as part of a subdivision and necessary to provide legal access to subdivision lots will be considered as contributing to the impervious surface requirements of this chapter. The director of planning and zoning and the director of public works may, however, allow subdivision redesign in order to minimize the amount of subdivision land dedicated to streets.
- 2. Modifications in road standards may be allowed to reduce potential impacts to the site and critical area resources, where the reduced standards do not significantly affect safety.
- G. Trees shall be protected, preserved and replaced pursuant to the requirements of Section 17.09.080E.

21.54.070 Subdivision in Buffer Exemption = eas[CG1]

The state Critical Area Commission policy applies only to lots of record that existed as of December 1, 1985. However, subdivision of grandfathered parcels may be permitted if the subdivision, consolidation, or reconfiguration of the parcels will result in an overall environmental benefit. Applications for subdivision in buffer exempt areas shall be approved by the Critical Area Commission. In no case shall the subdivision and the subsequent redevelopment result in a greater area of impervious surface in the buffer.

- A. The Department of Planning & Zoning review of the submission shall be based on the State of Maryland Buffer Exempt Area Policy dated April 5, 2000.
- B. All new construction, or enlargement of any structure in the Buffer Exempt Area shall be subject to:
 - 1. **Posting of Property.** At the time of submissions of plans, notice must be posted for at least 14 days on the property that is the subject of the application in a manner prescribed by the Planning and Zoning Director.
 - 2. **Public Comment Period.** During the posting period, and for seven days thereafter, the Planning and Zoning Director shall accept comments from the public that are relevant to the proper consideration of the submitted plans.

21.54.080 Development requirements--Intensely developed areas.

- A. **Stormwater management.** Stormwater management technologies shall be required to reduce pollutant loadings by at least ten percent below that of predevelopment levels in accordance with Chapter 17.10.
- B. **Impervious surfaces.** Manmade impervious surfaces shall be limited to the following maximum percentages of the development site[CG2]:

Underlying Zoning	Percent of Manmade
District	Impervious Surface
	(maximum)

Residential	50
P, PM, B1, B2, B3	60
C1, C1A,	75
Maritime	80
C2, C2A, C2P	90

- C. **Erosion and sediment control.** Erosion and sediment control measures shall be required in accordance with Chapter 17.08.
- D. **Cluster development.** Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.
- E. **Trees.** Cutting and clearing of trees shall occur in accordance with Section 17.09.08 of the City of the Annapolis City Code and with landscaping guidelines determined by the Department of Planning and Zoning.

F. Habitat Protection Areas.

- 1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.
 - 2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the city that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.
- 3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.

21.54.090 Development requirements--Limited development areas

A. Habitat Protection Areas

- 1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.
- 2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the city that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.
- 3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.

B. Wildlife Corridors

- 1. If a development site contains a natural area which might be used as a wildlife corridor, and there are such areas adjacent, then a development proposal must incorporate the wildlife corridor into the site design.
- 2. The developer shall incorporate a wildlife corridor system into the site. The wildlife corridor incorporated into the site should connect the largest undeveloped, or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with off-site habitats.
- 3. The developer shall grant a conservation easement to the city to ensure that the wildlife corridor is maintained.

C. Forests and Developed Woodlands

- 1. Forests and developed woodlands are to be maintained in accordance with Section 17.09.080 and within landscaping guidelines as determined by the department of planning and zoning.
- 2. Tree replacement and fees in lieu of tree replacement shall be allowed in accordance with the provisions of Section 17.09.070.
- 3. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments.
- 4. The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.
- D. **Steep slopes.** Development is not permitted on slopes greater than fifteen percent unless it can be shown that such development is the only effective way to maintain or improve the stability of the slope, and is consistent with the density, water quality and habitat protection policies for limited development areas.
- E. **Soils with development constraints.** Development is discouraged on soils having development constraints. Development may be allowed by the Department of Public Works if adequate mitigation measures are implemented to address the identified constraints and if the development will not adversely affect water quality or plant, fish and wildlife habitat.
- F. **Stormwater management.** Stormwater management technologies shall be required to minimize adverse water quality impacts caused by stormwater run-off in accordance with Chapter 17.101CG3].

G. Streams

- 1. If the project involves development activities which would cross or affect streams, the developer shall identify any such stream in the project area, including those off-site, which might be affected by the project.
- 2. The developer shall show, as part of the site plan review requirements, that the development will:

- a. Not cause increases in the frequency and severity of floods;
- b. Retain existing tree canopy;
- c. Provide for the retention of the natural substrate for streambeds; and
- d. Minimize adverse impacts to water quality and stormwater run-off.

H. Impervious Surfaces

- 1. Except as otherwise provided in this section for stormwater runoff, man-made impervious surfaces are limited to 15 percent of a parcel or lot.
- 2. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 25 percent of the parcel or lot.
- 3. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 15 percent of the parcel or lot.
- 4. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then manmade impervious surfaces of the lot may not exceed 25 percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15 percent.
- 5. The City of Annapolis may allow a property owner to exceed the impervious surface limits provided in subsection H.2 and H.3 of this section if the following conditions exist:
 - a. New impervious surfaces on the site have been minimized.
 - b. For a lot or parcel one-half acre or less in size, total impervious surfaces do not exceed impervious surface limits in subsection 2. of this section by more than 25 percent or 500 square feet, whichever is greater;
 - c. For a lot or parcel greater than one-half acre and less than one acre in size, total impervious surfaces do not exceed impervious surface limits in subsection 3. of this section or 5,445 square feet, whichever is greater.
 - d. Water quality impacts associated with runoff from the new impervious surfaces can be and have been minimized through site design considerations or use of best management practices approved by the city to improve water quality;
 - e. The property owner performs on-site mitigation as required by the city to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee to the local jurisdiction in lieu of performing the on-site mitigation;
 - f. All fees in lieu collected by the city under Section 21.54.090.C.2. of this section must be used to fund projects that improve water quality within the critical area.
 - g. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

- 6. For the purposes of this section, any calculation of area covered by man-made impervious surfaces may exclude an area covered by a gapped wooden deck with pervious surface underneath.
- I. **Erosion and Sediment Control.** Erosion and sediment control measures shall be required in accordance with Chapter 17.08.
- J. **Cluster Development.** Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

21.54.100 Development requirements--Resource conservation areas.

- A. New residential development is permitted if the density of such development does not exceed one dwelling unit per twenty acres.
- B. New commercial, industrial and institutional development is not permitted.
- C. New development within the resource conservation areas shall conform to the same requirements as those set forth in Section 21.54.090 for limited development areas.

21.54.110 Water-dependent facilities

A. Water-dependent activities

- 1. New or expanded water-dependent development activities may be permitted in the buffer in intensely developed and limited development areas provided that the applicant shows:
 - a. That the activity is water-dependent;
 - b. That the project meets a recognized private right or public need;
 - c. That adverse effects on water quality, and fish, plant, and wildlife habitat are minimized;
 - d. That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and
 - e. That the facilities are consistent with an approved local plan; and
 - f. The above criteria shall not apply to individual private piers installed or maintained by riparian landowners which are not part of a subdivision which provides community piers.
- 2. In addition to the above criteria, developers of projects that are water-dependent shall prepare a statement showing that the proposed project meets the following requirements:
 - a. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
 - b. That the water body upon which these activities are proposed has adequate flushing characteristics in the area:

- c. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
- d. That adverse impacts to water quality that may occur as a result of these activities, such as non-point-source runoff sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;
- e. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
- f. That dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the critical area, generally;
- g. That dredged spoil will not be placed within the buffer or elsewhere in that portion of the critical area which has been designated as a habitat protection area except as necessary for:
 - i. Backfill for permitted shore erosion protection measures,
 - ii. Use in approved vegetated shore erosion projects,
 - iii. Placement on previously approved channel maintenance spoil disposal areas, and
 - iv. Beach nourishment; and
- h. That interference with the natural transport of sand will be minimized.

B. Community piers

An applicant for a community pier shall prepare a statement to show the following requirements have been met:

- 1. The facilities shall be community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
- 2. The facilities are associated with a residential development approved by the city for the critical area and is consistent with all regulations of the city of Annapolis critical area program;
- 3. Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities:
- 4. The facilities shall not offer food, fuel or other goods and services for sale;
- 5. The number of slips permitted at the facility shall be the lesser of the following:
 - a. One slip for each 50 feet of shoreline in the subdivision in the intensely developed and limited development areas, or
 - b. One slip for each 300 feet of shoreline in the subdivision in the resource conservation area, or

c. A density of slips to platted lots or dwellings within the subdivision in the critical area according to the following schedule:

Platted Lots or Dwellings in the Critical Area	Slips
Up to 15	1 for each lot
16 to 40	The greater of 15 or 75 percent
41 to 100	The greater of 30 or 50 percent
101 to 300	The greater of 50 or 25 percent
Over 300	The greater of 75 or 15 percent

6. When a community pier with slips is provided as part of a new development project, private piers are not permitted for each individual residential lot.

C. Public water-oriented recreation or education areas.

Public water-oriented recreation or education areas will be permitted in the buffer if the provisions above are satisfied, as well as the following requirements:

- 1. Public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in intensely developed areas.
- 2. These facilities may be permitted within the buffer in limited development areas and resource conservation areas provided that:
 - a. Adequate sanitary facilities exist;
 - b. Service facilities are, to the extent possible, located outside the buffer;
 - c. Permeable surfaces are used to extent practicable, if no degradation of groundwater would result:
 - d. Disturbance to natural vegetation is minimized; and
 - e. Areas for passive recreation, such as nature study and for education, may be permitted in the buffer within resource conservation areas, if service facilities for these uses are located outside of the buffer.

21.54.120 Habitat protection

Each applicant proposing a land-disturbing activity within the critical area of the city of Annapolis must submit a habitat protection area statement for plant and wildlife that addresses the following:

A. The applicant for any land-disturbing activity within the city's critical area is required to identify all plant and wildlife habitat areas subject to this program anywhere within the legally divided parcel proposed for development.

- B. If there are plant and wildlife habitat areas within the parcel proposed for development, the applicant will prepare a plant and wildlife habitat statement which indicates the measures to be taken to meet the following requirements, as appropriate:
 - 1. Establish buffer areas for colonial water bird nesting sites so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season;
 - 2. Provide that new water-dependent facilities are so located as to prevent disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl;
 - 3. Provide protection measures, including a buffer area, where appropriate, for other plant and wildlife habitat sites which may in the future be identified by state and federal agencies as important plant or wildlife habitat areas;
 - 4. Protect and conserve those riparian forests of approximately three hundred feet or more in width required to support forest interior dwelling birds, as determined by methods described in the critical area commission Guidance Paper Number 1, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area";
 - 5. To the extent practical, when development activities, or the cutting or clearing of trees, occurs in forested areas, maintain corridors of existing forest or woodland vegetation to provide effective connections between wildlife habitat areas;
 - 6. Protect those plant and wildlife habitats considered to be of significance by the city of Annapolis;
 - 7. Protect natural heritage areas from alteration due to development activities or cutting or clearing so that the structure and species composition of the areas are maintained.
- C. If a protected plant or wildlife habitat is not present within a parcel proposed for development, then a statement to that effect from a qualified expert must be submitted to the city.
- D. In preparing the plant and wildlife habitat statement, the applicant is responsible for consulting with the DNR Department of Natural Resources; the Maryland Natural Heritage Program; the U.S. Fish and Wildlife Service; the city of Annapolis; and other relevant public agencies and private organizations.

21.54.130 Site design plan review

Site design plan review in accordance with Chapter 21.22 shall be required for all projects located in the critical area overlay district to ensure compliance with this chapter and the city's critical area program.

21.54.140 Change of area designation

- A. Limited development areas may be changed to intensely developed areas, but only under the procedures in this section.
- B. No more than 11 acres of land in the critical area may be changed from limited development area to intensely developed area or from resource conservation area to another classification.

- C. Areas proposed for change must be mapped and must include an analysis of the manner in which the areas designated conform to the locational guidelines specified in subsection E of this section. The developer shall be responsible for preparing this submission for the Department of Planning and Zoning.
- D. The map and the analysis shall be submitted by Department of Planning and Zoning to the Critical Area Commission for approval before development may occur on the site.
- E. To identify new intensely developed areas, the following locational guidelines shall be used:
 - 1. Locate in existing limited development areas or adjacent to existing intensely developed areas:
 - 2. Minimize impacts to habitat protection areas and resource conservation areas;
 - 3. Should be at least 300 feet from tidal waters or tidal wetlands if located in existing resource conservation areas.

21.54.150 Grandfathering provisions

The following types of land may be developed in accordance with density requirements in effect prior to February 13, 1989, notwithstanding the density provisions of this chapter:

- A. **Existing Land Uses.** Existing land uses as of February 13, 1989 may continue. Alterations or expansion of nonconforming land uses will not be permitted, unless a variance is granted under the procedures described in Section 21.54.160.
- B. **Single-family dwelling.** A single lot or parcel that was legally of record on February 13, 1989 may be developed with a single-family dwelling. In the case of any legal parcel of land in the limited development area or resource conservation area that was recorded as of June 1, 1984, manmade impervious surfaces shall be limited to 2,000 square feet or 15 percent of the site, whichever is greater;
- C. **Development Activity.** Any land on which development activity has progressed to the point of the pouring of foundation footings or the installation of structural members as of February 13, 1989;
- D. **Individual Parcels of Land, Not Part of a Subdivision.** Any legal parcel of land that was recorded as of December 1, 1985 and not part of a recorded or approved subdivision is grandfathered;
- E. **Subdivision Before June 1, 1984.** Subdivision of land approved prior to June 1, 1984 is grandfathered, subject to the following conditions:
 - Recorded legally buildable lots in subdivisions which received the City's approval prior to June 1, 1984 may be consolidated or reconfigured in order to bring them into conformance with the Critical Area Program insofar as possible without the consolidation or reconfiguration being considered a resubdivision by the state critical area commission.
- F. Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval between June 1, 1984 and December 1, 1985.

- G. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval after December 1, 1985, provided that development of any such land conforms to the critical area criteria.
- H. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in the Water Dependent Facilities Section and the Habitat Protection Areas section of this Zoning Code.
- I. For purposes of implementing this regulation, the City has determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in Section 21.54.080, 21.54.090 and 21.54.100.

21.54.160 Variances.

- A. Except as otherwise specified in Sections 21.54.170 and 21.54.180 of this chapter, variances to the provisions of this city of Annapolis critical area program will be considered due to special features of a site or other circumstances, city implementation of Title 27, Subtitle 01, of the Code of Maryland Regulations, or where a literal enforcement of provisions within the critical area program would result in unwarranted hardship to an applicant[CG4].
- B. Applications for variances and administrative variances shall be made in writing to the Planning and Zoning Director with a copy to the Critical Area Commission in accordance with the procedures in Section 21.28.020 and 21.28.030 of this Zoning Code. Variances will be considered under the provisions of Chapter 21.28 of this Zoning Code, except that the standards or conditions under which a variance shall be considered are:
 - 1. That special conditions or circumstances exist that are peculiar to the land or structure within the city's critical area program, would result in unwarranted hardship;
 - 2. That a literal interpretation of Title 27, Subtitle 01, of the Code of Maryland Regulations or the city critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area of the city;
 - 3. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by Title 27, Subtitle 01, of the Code of Maryland Regulations or the city critical area program to other lands or structures within the city critical area;
 - 4. That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property;
 - 5. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the city's critical area, and that granting of the variance will be in harmony with the general spirit and intent of the critical area law and the regulations adopted in Title 27, Subtitle 01, of the Code of Maryland Regulations.

C. Appeals

1. Any person aggrieved by any decision of the Board of Appeals may appeal that decision to the circuit court of Anne Arundel County [CG5].

2. An appeal filed pursuant to this section does not stay the action from which the appeal is taking unless provided by state law or an order entered by a court of competent jurisdiction[CG6].

21.54.170 Administrative variances

A. The purpose of this section is to authorize delegation of Board of Appeals approval authority to the Planning and Zoning Director to apply the standards for variances as specified in Section 21.54.160 for proposed development activities as follows:

In the case of residential structures currently located within the designated 100-foot buffer, an expansion of these structures; provided, that the expansion occurs parallel to the shoreline and does not further encroach into the waterway yard.

- B. Administrative variances are subject to the following conditions:
 - 1. This section applies to new development or redevelopment within the critical area buffer.
 - 2. This section only applies to single-family lots of record at the time of program approval.
 - 3. Development may not impact any habitat protection areas other than the buffer.
 - 4. The applicant will be required to maintain existing natural vegetation in the buffer to the extent possible.
 - 5. The disturbance to the buffer must be the least intrusion necessary.
 - 6. Any development in the buffer will require mitigation/enhancement/or offsets, as follows:
 - a. The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
 - b. Natural vegetation of an area twice the extent of the impervious surface must be created in a buffer offset area or other location as may be determined by the city.
 - 7. An applicant who cannot comply with the above planting or offset requirements is required to pay into the fee-in-lieu program established under Chapter 17.09 according to the specifications below.
 - a. For each square foot of the buffer disturbed, \$1.20; and
 - b. For any buffer plantings required by Chapter 17.09 that cannot be implemented on site, \$0.40/square foot.
 - c. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the critical area for the benefit of wildlife habitat, water quality improvements or environmental education. The status of these funds must be reported at the time of comprehensive review. If it is not possible to carry out offsets or other mitigation within the critical area, any plantings or other habitat/water quality improvement should occur within the affected watershed.

- 8. Any required reforestation/mitigation/offset areas must be designated under a development agreement or other instrument and recorded among the land records of Anne Arundel County.
- 9. The state critical area commission shall be notified prior to any administrative action by the staff and within ten days of the action.
- 10. The chairman of the critical area commission may appeal an administrative variance granted by the Planning and Zoning Director or local approving authority. At this time the project will go before the Board of Appeals de novo.

21.54.180 Variances in conjunction with subdivisions

- A. In accordance with the regulations of Chapter 20, Subdivisions, if a subdivision requires approval by the Planning Commission, the authority to approve a variance to the critical area requirements shall be that of the Planning Commission. The Planning Commission in considering the variance shall apply the standards or conditions of review specified under Section 21.54.160.
- B. Appeals from decisions of the Planning Commission under Section 21.54.180 shall be made to the Circuit Court for Anne Arundel County.

21.54.190 Appeals

An appeal may be made to the Board of Appeals, in accordance with Chapter 21.30, by a person, firm or corporation aggrieved or affected by a decision of the Planning and Zoning Director in accordance with this chapter.

Chapter 21.56 Historic District

Sections:

Article I.	Approval of Exterior Changes
21.56.010	Authority and purpose
21.56.020	Definitions
21.56.030	Boundaries
21.56.040	Certificate of approval
21.56.050	Certificate of approvalDemolition
21.56.060	Application review
21.56.070	Certificate of approvalCommission decision
21.56.080	Certificate of approvalExpiration
21.56.090	Maintenance, repair, and demolition by neglect
21.56.100	Undergrounding of utilities
21.56.110	Appeals
21.56.120	Violations
21.56.130	Severability
21.56.140	Statutory authority
Article II.	Height and Bulk Limits
21.56.150	Purpose
21.56.160	Applicability
21.56.170	Height measurement
21.56.180	Special height limit districts
21.56.190	Front setback for replacement buildings
21.56.200	Side yards
21.56.210	Width of buildings
21.56.220	Existing buildings

Article I. Approval of Exterior Changes

21.56.010 Authority and purpose

- A. The mayor and city council of the city of Annapolis, Maryland, derives authority for this chapter by virtue of its conformance with provisions of the State of Maryland Enabling Act for Historic Area Zoning, Article 66B, Zoning and Planning, Section 8.01--8.17, Annotated Code of Maryland, as amended.
- B. The preservation of sites, structures, and districts of historical, cultural, archaeological, or architectural significance together with their appurtenances and environmental settings is a public purpose.
- C. It is the further purpose of this article to preserve and enhance the quality of life and to safeguard the historical and cultural heritage of Annapolis by preserving sites, structures, or districts which reflect the elements of the city's cultural, social, economic, political, archaeological, or architectural history; to strengthen the local economy; to stabilize and improve property values in and around such historic areas; to foster civic beauty, and to preserve and promote the preservation and appreciation of historic sites, structures and districts for the education and welfare of the citizens of the city.

21.56.020 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

- A. "Alteration" shall mean any exterior changes that would affect the historic, cultural or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way including, but not limited to, construction, reconstruction, moving or demolition.
- B. "Appurtenances and environmental settings" shall mean all that space of grounds and structures thereon which surrounds a designated site or structure and to which it related physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), trees, landscaping, waterways, open space, setbacks, parks, public spaces, and rocks.
- C. "Certificate of approval" shall mean a certificate issued by the Historic Preservation Commission indicating its approval of plans for construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated historic district.
- D. "Cultural" shall mean that which relates to the artistic, historic, intellectual, educational, archaeological, or architectural aspects of the city of Annapolis.
- E. "Demolition" shall mean any act which destroys, in whole or in part, an individually designated landmark, site, or structure, or a site or structure within a designated historic district not including appurtenances and environmental settings.
- F. "Demolition by neglect" shall mean any willful neglect in the maintenance or repair of an individually designated landmark, site, or structure, or a site or structure within a designated historic district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:
 - 1. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
 - 2. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features, which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors or windows.
- G. "Historic district" shall mean a significant concentration, linkage, or continuity of sites or structures united historically, architecturally, archaeologically, or culturally, by plan or physical development. An historic district shall include all property within its boundaries as defined and designated by the city council.
- H. "Exterior features" shall mean the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs or similar items found on or related to the exterior of an historic structure.

- I. "Landmark" shall mean any site or structure, designated by the city council, outside the boundaries of an historic district that is of exceptional historic, cultural, archaeological, or architectural significance.
- J. "Maintenance" shall mean work that does not alter the exterior fabric or features of a landmark, site or structure and has no material effect on the historical, archaeological, or architectural or cultural significance of the historical landmark, site or structure.
- K. "New construction" shall mean construction which is characterized by the introduction of new elements, sites, buildings, or structures or additions to existing buildings and structures in historic districts.
- L. "Preservation" shall mean actions taken to prevent or keep a structure from decay or degradation.
- M. "Reconstruction" shall mean the process of reproducing, by new construction, the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.
- N. "Rehabilitation" shall mean the act or process of returning a property or building to usable condition through repair, alteration, and/or preservation of its features which are significant to its historical, architectural, and cultural values.
- O. "Repair" shall mean the process of rehabilitation which warrants additional work beyond simple maintenance, repair, includes patching, piecing in, splicing, consolidating or otherwise, reinforcing materials according to recognized preservation methods.
- P. "Restoration" shall mean the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.
- Q. "Site" shall mean the location of an event of historic significance or the location of a structure whether standing or ruined, which possesses historic, architectural, archaeological, or cultural significance.
- R. "Structure" shall mean a combination of material to form a construction that is stable including, but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof".

21.56.030 Boundaries

A. The boundaries of the Annapolis historic district are established as follows:

Beginning for the same at the intersection of the centerline of Southgate Avenue with the tidewaters of Spa Creek; thence leaving the beginning point and running with the tidewaters of Spa Creek westerly one hundred fifty feet, more or less, to intersect a line drawn parallel to and distant southwesterly one hundred fifty feet, as measured at right angels from the centerline of Southgate Avenue; thence leaving the tidewaters of Spa Creek and running northwesterly with the line parallel to Southgate Avenue to intersect the centerline of Franklin Street; thence leaving Franklin Street, continuing parallel to Southgate Avenue one hundred feet, more or less,

to intersect a line drawn parallel to and distant northwesterly one hundred feet as measured at right angles from the centerline of Franklin Street: thence leaving the line parallel to Southgate Avenue and running with the line parallel to Franklin Street northeasterly to intersect the centerline of Shaw Street from the point of intersection running northwesterly following the centerline of Shaw Street northwesterly to a point one hundred fifty-five feet distant as measured from the intersection of the centerline of Shaw Street and the centerline of Lafayette Avenue; thence leaving the point of intersection and running in a southwesterly direction for eighty feet following the east property line of Lot 45 as shown on a plat of City Gate, section 1, recorded among the land records of Anne Arundel County in plat book 77, page 26; thence leaving the line and running in a northwesterly direction following the rear property lines of Lots 45a, 44, 43, 42 and 41 as shown on the plat to a point intersecting the centerline of Lafayette Avenue; thence following the centerline of Lafayette Avenue in a northerly direction for a distance of two hundred feet; thence leaving the centerline of Lafayette Avenue and running in an easterly direction following the southerly property line of Parcel 546 as shown on Tax Map 30 of Annapolis, as prepared by the Maryland Department of Assessments and Taxation, to a point intersecting the centerline of Water Street; thence following the centerline of Water Street in a northerly direction to a point intersecting with the centerline of Larkin Street; thence following the centerline of Larkin Street in an easterly direction to a point intersecting the centerline of City Gate Lane; thence following the centerline of City Gate Lane in a northerly direction to a point intersecting the centerline of West Street; thence running with the centerline of West Street easterly one hundred feet to intersect the centerline of Calvert Street; thence running with the centerline of Calvert Street northerly to intersect the centerline of Northwest Street; thence westerly with the centerline of Northwest Street to a point distant one hundred feet from the centerline of the eastbound lane of the Roscoe Rowe Boulevard: thence parallel with the eastbound lane of Roscoe Rowe Boulevard to the shoreline of College Creek; thence leaving the parallel to Roscoe Rowe Boulevard and running with the shoreline in a general northerly and northeasterly direction to intersect the present property line of the United States Naval Academy; thence leaving the shoreline of College Creek and running with the present divisional lines between the United States Naval Academy and the city of Annapolis to the intersection of the northeast side of Prince George Street with the shoreline of Spa Creek; thence leaving the United States Naval Academy property and the present property line and running with the shoreline generally in a westerly direction to the place of beginning. Excepting all that property known as St. Anne's cemetery.

Saving and excepting all that property known as Southgate Harbor shown on a plat filed among the plat records of Anne Arundel County, Maryland, in plat book 41, folios 3 and 4, which is the same property conveyed by E. Nyce Feldmeyer, unmarried, to C. Edward Hartman, II and Patricia M. Hartman, his wife, by deed dated April 26, 1956, and recorded among the land records of Anne Arundel County in liber G.T.C. 1559, folio 161.

- B. The City Council may designate boundaries for landmarks, sites, structures, or districts of historic, cultural, archaeological, or architectural significance.
- C. Recommendations for designation of landmarks, sites, structures and districts shall be submitted to the city council for consideration. The Historic Preservation Commission may, after making full and proper study, recommend any area within the limits of the city for designation as a landmark, site, structure, or district of historic, cultural, archaeological, or architectural significance. The Commission shall recommend boundaries for the landmarks, sites, structures, and districts.
- D. The City Council or the Commission may petition the Maryland Historical Trust to make an analysis of and recommendation concerning the preservation of landmarks, sites, structures, or

districts of historic, archaeological, architectural, or cultural significance within the city. Such report may include proposed boundaries of sites, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures, or districts to be preserved.

21.56.040 Certificate of proval[CG7]

- A. When required. Before a person may undertake the construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of a designated landmark, site, or structure, or a site or structure within a designated historic district, if any exterior change is made which would affect the historic, archaeological, architectural, or cultural significance of a site or structure within a designated district or a designated landmark, site, or structure any portion of which is visible or intended to be visible from a public way, the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a certificate of approval with the Commission for permission to construct, alter, rehabilitate, restore, reconstruct, move, or demolish the landmark, site, or structure.
- B. Application. An application for a certificate of approval shall be filed with the clerk to the Historic Preservation Commission. Each application shall include maps, plans and other necessary data and documents required by the rules of the Commission and shall be advertised in the manner provided in the rules. Additionally, the property shall be posted in accordance with the rules and regulations adopted by the Commission. Application fees shall be determined by the Department of Planning and Zoning.
- C. Referral to and consideration by the Commission. Every application shall be referred to and considered by the Commission and accepted, accepted with modifications, or rejected by the Commission. An application which is identical to a rejected application may not be resubmitted within a period of one year after the rejection. No certificate of approval shall be granted until the Commission has acted thereon as hereinafter provided.

21.56.050 Certificate of approval - Demolition

An application for demolition of a structure shall include plans for a replacement structure. Approval for the demolition of a structure may be conditioned upon the construction of an acceptable replacement structure, or landscape or park plan. A bond or other financial guaranty in the amount of the cost of the replacement structure may be required in order to assure the construction of the replacement structure, or park, or landscape plan.

21.56.060 Application review

- A. In reviewing applications, the Commission shall give consideration to the historic, cultural, archaeological, or architectural significance of the landmark, site, or structure and its relationship to the historic, cultural, archaeological, or architectural significance of the surrounding area; the relationship of the exterior architectural features of a landmark, site, or structure to the remainder of the landmark, site, or structure and to the surrounding area; the general compatibility of proposed exterior design, scale, proportion, arrangement, texture, and materials to the landmark, site, or structure and to the surrounding area; and any other factors including aesthetic factors which the Commission deems to be pertinent.
- B. The Commission shall consider only exterior features of a landmark, site, or structure and shall not consider any interior arrangements.

- C. The Commission shall not disapprove an application except with respect to the several factors specified in subsection A. above.
- D. The Commission shall be strict in its judgment of plans for landmarks, sites or structures determined by research to be of historic, cultural, archaeological, or architectural significance. The Commission shall be lenient in its judgement of plans for landmarks, sites or structures of little historic, cultural, archaeological, or architectural significance, or of plans involving new construction, unless in the Commission's judgement such plans would seriously impair the historic, cultural, archaeological, or architectural significance of surrounding landmarks, sites or structures. The Commission is not required to limit construction, reconstruction, or alteration to any one period of architectural style.

E. Special considerations

- 1. If an application is submitted for construction, reconstruction, or alteration affecting a landmark, site or the exterior of a structure or for the moving or demolition of a structure, the preservation of which the Commission considers to be of unusual importance to the city, state, or nation, the Commission shall attempt to formulate an economically feasible plan with the owner(s) of the site or structure for the preservation of the landmark, site or structure.
- 2. In the circumstances described above in subsection E.1, unless the Commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic, cultural, archaeological, or architectural significance of the landmark, site or structure, the Commission shall reject the application, filing a copy of its rejection with the Department of Public Works.
- 3. If an application is submitted for construction, reconstruction, or alteration, or for the moving or demolition of a landmark, site or structure that the Commission considers to be of unusual importance and no economically feasible plan can be formulated, the Commission shall have ninety days, from the time it concludes that no economically feasible plan can be formulated, to negotiate with the owner(s) and other parties in an effort to find a means of preserving the landmark, site or structure. At the end of such 90 day period, if no means of preserving the landmark, site or structure has been found, the Commission shall either approve, approve with modifications, or reject the application.
- 4. In the case of a landmark, site or structure considered to be valuable for its historic, cultural, archaeological, or architectural significance, the Commission may approve the proposed construction, reconstruction, alteration, moving, or demolition despite the provisions of subsection E.2 above, if the Commission finds that:
 - a. The landmark, site or structure is a deterrent to a major improvement program which will be of substantial benefit to the city;
 - b. Retention of the landmark, site or structure would cause undue financial hardship to the owner; or
 - c. Retention of the landmark, site or structure would not be in the interests of a majority of persons in the city.

21.56.070 Certificate of approval - Commission decision

- A. The Commission shall file with the Department of Public Works a certificate of approval certifying its approval or modification of each application and plans submitted to it for review. If an application is rejected, the Commission shall notify the Department of Public Works.
- B. Work shall not be commenced on any project until such a certificate of approval has been filed, and the Department of Public Works shall not issue a building permit for such change or construction unless it has received such a certificate of approval.
- C. Failure of the Commission to act upon a completed application within 45 days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed changes unless an extension of the 45 day period is mutually agreed upon by the applicant and the Commission or the application has been withdrawn and except as provided by Section 21.56.060.E.3 above [CG8].

21.56.080 Certificate of approval - Expiration

A certificate of approval of the Commission shall expire automatically, unless extended by the Commission, if:

- A. In the case of an application for the demolition, moving or alteration of a structure, the work has not commenced within six months and been completed within one year from the date of issuance of the certificate of approval; or
- B. In the case of an application for the construction of a new structure, the work has not commenced within one year from the date of issuance of the certificate of approval and been completed within three years.
- C. For the purposes of this section, application for extension of approval shall be treated and considered as a new application before the Commission.

21.56.090 Maintenance, repair, and demolition by neglect

- A. Nothing in this article shall be taken or construed to prevent maintenance that does not alter the exterior fabric or features of a designated landmark, site, or structure, or landscaping, and which will have no material effect on the historic, cultural, archaeological, or architectural significance of a designated landmark, site, structure, or district.
- B. In the event of demolition by neglect, the Commission may request that the mayor's office notify, in writing, the property owner(s) of record, any person(s) having a right, title, or interest therein, and the occupant(s) or other person(s) responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- C. Prior to the issuance of a written notice, the Commission may request that the city establish a record of demolition by neglect. Such record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.
- D. The notice shall provide that corrective action shall commence within thirty days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner(s) of record of the property, or any person(s) of record with any right, title, or interest

therein, may, within ten days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Commission upon 30 days' written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Commission determines may have an interest in the proceedings.

- E. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request that the mayor issue final notice to be mailed to the owner(s) of record and all parties of record with any right, title, or interest in the property, advising them of the items of repair and maintenance necessary to correct the deterioration or prevent further deterioration. The owner shall institute corrective action to comply with the final notice within 30 days of receipt of the final notice.
- F. Upon failure, neglect, or refusal of the property owner(s) or other responsible person(s), duly notified, to take the corrective action specified in the final notice within the time required, the Commission may request that the mayor's office institute any of the remedies and penalties provided by law for such violations.

21.56.100 Undergrounding of utilities

- A. The city may require that utility companies relocate underground existing overhead lines and facilities within a defined part of the district or the entire district, and require that the connection thereto be placed underground, if necessary by private owners then receiving service from the overhead lines and facilities. The city shall provide:
 - 1. That the estimated cost to property owners, for work to be performed on private property, be determined and made available to affected property owners;
 - 2. That financing of these costs to private owners be provided including any charges for the amortization of the bonds issued to initially cover such private costs. The city may enter into agreement with individual property owners whereupon it will advance funds to cover the property owner's costs involved in the conversion of the overhead lines and facilities and may appropriate funds, levy taxes or borrow funds to pay and advance the costs of such conversion. The city may also impose a benefit assessment against the property in the district for which the conversion is made in order to recapture such expended costs and make appropriate provisions for the collection thereof; and
 - 3. For any other provisions reasonably related to the objectives of placing underground overhead lines and facilities, and the administration of such projects.
- B. Notwithstanding any other provision in this section, the Public Service Commission shall prescribe the amount of the monthly surcharge required to support the net capital costs and determine which customers of the applicable utility are subject to the surcharge, or the Commission shall include the related net capital costs in the rate base, or shall adopt any other method to appropriately apportion the said costs. However, in no event shall the utility be required to pay more than fifty percent of the net capital costs. The city is authorized to make appropriations for such relocation projects from any appropriate federal, state and local funds it receives for this purpose.

21.56.110 Appeals

Any person or persons, firm or corporation aggrieved by a decision of the Commission has a right of appeal to the Anne Arundel County Circuit Court and a further appeal to the Court of Special Appeals of Maryland. Appeal requests must be filed within thirty days from the date of the Commission decision.

21.56.120 **Violations**

- A. Any person(s) who willfully performs or allows to be performed any work without first obtaining a certificate of approval, fails to comply with any final notice issued pursuant to this article, or disregards a decision of the Commission will be in violation of the provisions of this article. A violation of the article shall be deemed a municipal infraction as stated in the city code. Each and every day that the violation continues shall be deemed a separate offense. Violators may be assessed a fine not to exceed 100 dollars for each day that the violation continues.
- B. In addition to other remedies and penalties, where there is a violation of this article, the planning and zoning director, through the city attorney, shall institute appropriate action to prevent, enjoin, abate or remove the violation.

21.56.130 Severability

If any provisions of this article or the application thereof to any person(s) or circumstances are held invalid for any reason, such invalidity shall not affect the other provisions of any other application of this article which can be given effect without the invalid provisions or application, and to this end, all the provisions of this article are hereby declared to be severable.

21.56.140 Statutory authority

The authorities for this law are Section 4.01 et. seq. and Section 8.01 et. seq. of Article 66B of the Annotated Code of Maryland. Nothing in this law shall be construed to limit the authority of the Historic Preservation Commission of the city to review proposals with respect to height and bulk.

Article II. Height and Bulk Limits

21.56.150 Purpose

The purpose of this article is to provide for light and the circulation of air, to prevent the congestion of population, to implement the purpose set forth in Section 21.56.010 of this chapter, and to better preserve the existing historical and architectural character of the historic district by limiting the height and bulk of buildings in the historic district.

21.56.160 Applicability

The special height and bulk limits apply only to land within the historic district and are intended to be supplementary and in addition to the more general factors of compatibility set forth in Section 21.56.100 of Article I of this chapter.

21.56.170 Height measurement

The height of buildings shall be determined in the following manner:

- A. All measurements shall be taken from the center of the building at the front setback line; provided, however, that if the building is greater than 44 feet wide, the massing shall conform to Section 21.56.250. In buildings greater than 44 feet in width, the building height measurement shall be taken at the highest point of each building element at the front setback line.
- B. Antennas and mechanical equipment up to 30 inches high shall not be counted in computing height, and penthouses, other structures and mechanical equipment 30 thirty inches in height shall be used in computing height; chimneys are excluded.
- C. For the purpose of achieving a permanent height limit, the height of a building shall not be allowed to increase because of an increase in the elevation of the front setback line occurring after the effective date of this Zoning [code[CG9]].

G. Height measurement in special height limit districts

- 1. Two limits are established for each height _____ict[CG10]:
 - a. The height of a building at its highest point.
 - b. The height of a cornice or lower roofline of the building at the front setback line.
- 2. The height of a building behind the front setback line may be increased provided it does not exceed a plane projected at an angle of 45 degrees upward from the maximum allowable cornice or lower roofline height at the front setback line. The plane may contain roof dormers provided the sum of their widths does not exceed 50 percent of the street front linear dimensions of the building.
- 3. For gambrel and gable roofs with ridge lines perpendicular to the street, the height will be measured as follows: the first will be measured at the side wall at the front setback line and the second at the ridge line.

21.56.180 Special height limit tricts[CG11]

- A. **Establishment.** Three special height limit districts are hereby established: district 1, district 2 and district 3.
- B. Location and boundaries. The location and boundaries of the special height limit districts are as set forth on the map entitled "Historic District Special Height and Bulk Limits, Revised, May, 1983," certified copies of which are be maintained by the Department of Planning and Zoning, which constitutes a part of the "City of Annapolis Zoning District Map", established by Section 21.06.020.
- C. **Applicability.** The special height and bulk limits in these districts shall govern over any other height and bulk limits established in other provisions of this Zoning Code.
- D. Regulations

- 1. No building in the special height limit district 1 may exceed a total height of 32 feet and a height of 22 feet at the cornice or lower roofline measured at the front setback line.
- 2. No building in the special height limit district 2 may exceed a total height of 38 feet and a height of 28 feet at the cornice or lower roofline measured at the front setback line.
- 3. No building in the special height limit district 3 may exceed a total height of 45 feet and height of 35 feet at the cornice or lower roofline measured at the front setback line.

Within the limits of the historic district, front setback provisions for the C1, C1A, C2, C2A and C2P districts shall be modified to provide that where a new building is constructed which takes the place of an existing building, the new building may be constructed with the same front setback as existed for the building it replaces; otherwise, the new building shall be subject to the provisions of the bulk regulations for those districts.

21.56.200 Side yards

Within the limits of the historic district the interior side yard requirement specified in the bulk regulations table for the C-1 district shall be modified to require:

- A. **Existing yards.** Existing side yards shall be maintained; provided, that they are not required to be greater than five feet.
- B. **New construction.** Where a new building or building addition replaces a building or part of a building that had a side yard, the side yard shall be maintained; provided, that it is not required to be greater than five feet. Where a new building replaces a building which did not have side yard, then a side yard is not required. In all other cases of new building, a side yard of five feet is required[CG13].

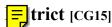
21.56.210 Width of buildings

- A. The width of new buildings is governed by the width of their individual building elements (as defined in subsection C. of this section) which should be compatible with the massing of structures in the surrounding neighborhood and with the historic district to maintain the historic and architectural character of the historic district.
- B. The width of individual building elements may not exceed twice the height of the lower roofline of the building as measured at the front setback line.
- C. "Building elements" means an unbroken roof ridge line, cornice or lower roofline, or wall. A building element will be considered broken if it is significantly offset from another building element, or separated from another building element by a projection or recess creating a substantial and distinct shadow line.

No building lawfully existing on the effective date of this Zoning Code shall be considered to be nonconforming because of a failure to comply with the provisions of this article, and nothing in this article prevents the restoration of a damaged or destroyed building, subject, however, to the approval of

the Historic Preservation Commission and Section 21.70.030. UPDATE REFERENCE for nonconforming uses		

Chapter 21.58 OCD Office and Commercial Design Overlay [=] trict [CG15]



21.58.010 **Purpose**

The purpose of the OCD Office and Commercial Design Overlay district is to protect the character of existing neighborhoods and to ensure the compatibility of new development with surrounding properties in designated parts of the city. The general purpose includes:

- Protection of the architectural massing, composition and styles as well as neighborhood scale A. and character:
- В. Compatibility of new construction and structural alterations with the existing scale and character of surrounding properties:
- C. Encouragement of existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community; and
- D. Preservation of streetscapes.

21.58.020 **Applicability**

The provisions of the OCD overlay district apply to all commercial and office districts with the suffix -OCD on the official zoning map (for example, B1-OCD, B2-OCD, P-OCD).

21.58.030 Regulations

In the OCD district the following regulations apply:

Uses. In addition to the uses permitted in the underlying zoning district the following use is A. permitted in the OCD overlay district:

> Bed and breakfast homes, subject to the standards for bed and breakfast homes in Chapter 21 64

В. Front yards

- 1. The front yard for principal uses shall be the lesser of the minimum specified in the bulk regulations table for the underlying zoning district or the established front yard pursuant to Chapter 21.38.
- 2. Building additions may maintain the front yard of the existing structure.
- 3. If a structure is demolished for the purposes of new construction, the new structure must maintain either the front yard of the previously demolished structure or the front yard as required under subsection B.1 of this section.
- C. Side yards. Notwithstanding the provisions of the underlying zoning district, there is no side vard requirement in the OCD district.
- D. Height

- 1. Except as provided in subsections D.2. and D.3 of this section, no building shall exceed the lesser of either the maximum height in the bulk regulations table for the underlying zoning district or the average height of all structures on the block face.
- 2. New construction behind the ridgeline (i.e., roofline) of an existing structure, or if no structure is extant, behind the average front setback of ridgelines on the block face, may maintain the height limitation in the bulk regulations table for the underlying zoning district.
- 3. The Director of Planning and Zoning may grant a 10 percent adjustment to the average height of all structures on the block face in subsection D.1. of this section, pursuant to the procedures set forth in Chapter 21.18 of this Zoning Code. This adjustment shall not be construed to permit buildings greater in height than the maximum height allowed in the district.
- E. **Site Design Plan Review.** Where development is subject to Site Design Plan Review, the following design standards shall apply in addition to the general standards set forth in Chapter 21.62.
 - a. Where new buildings, structures, structural alterations or structural rehabilitations, enlargements or reductions are proposed, their design shall be compatible with the historic character and design of the area and shall promote the existing spatial and visual qualities of the area. Design considerations shall include the following:
 - i. Height and scale of buildings,
 - ii. Orientation,
 - iii. Spacing,
 - iv. Site coverage, and
 - v. Exterior features such as porches, roof pitch and direction, landscaping, and glazing and configuration of glazing[CG16].
 - b. Exterior structural alterations along the street frontage to historic and contributing structures shall be kept to a minimum.

Page: 7

[CG1] Added "subdivision" to clarify subject of this section.

Page: 8

[CG2] C1A, C2, and C2P added to table.

Page: 10

[CG3] Updated reference from 17.12

Page: 17

[CG4] Added the word "where" to complete the sense.

Page: 17

[CG5] Appeals language simplified and made consistent with other appeals sections in the revised Code.

Page: 17

[CG6] Minor revision to current 21.80.060 which refers to Maryland Rule 7-205. This provision is informational rather than regulatory by the City. The revision is intended to help the layperson understand the situation with respect to stays rather than refer the layperson to another document.

Page: 24

[CG7] Combined former Sections 21.56.070 and 21.56.080

Page: 27

[CG8] Corrected former incorrect reference to 21.62.090.E.3.

Page: 30

[CG9] Effective date changed from August 10, 1970 to new effective date.

Page: 30

[CG10] Former 21.56.210.D broken up into sections to make it easier to follow.

Page: 31

[CG11] Slight rewording for clarifying establishment versus regulation.

Page: 31

[CG12] Wording modified slightly, effect retained. This is a revision of former Section 21.56.230 that referred to established front yard setback requirements in conservation districts. The established front yard regulations have been revised (see note in Division III, Chapter 38) necessitating rewording of this section.

Page: 32

[CG13] Section clarified per Issues and Options Paper, December 21, 2000. Former section 21.62.240 was unclear as to whether a side yard was required for an addition that replaces an addition that had a setback, when the main part of the building did not have a side yard. Section has been clarified by adding the words "or building addition" and "or part of a building" so as to clarify that a side yard IS required.

Page: 32

[CG14] Note change to effective date of this Zoning Code versus former language "building existing on August 10, 1970.

Page: 33

[CG15] New overlay district replacing the former RC overlay district (21.69). The residential portions of the overlay district would be a mapped district in the new zoning code (the R2-Neighborhood Conservation district). The OCD district contains only those provisions from former 21.69 that applied to B1, B2, and P districts that were within the overlay area.

Page: 34 [CG16] "Glazing and configuration of glazing" added.

DIVISION V REGULATIONS OF GENERAL APPLICABILITY

Chapter 21.60 Supplemental Use and Development Standards

Sections

21.60.010	Purpose
21.60.020	Uses without buildings
21.60.030	One principal building per lot
21.60.040	Yard and lot area maintenance and conformity
21.60.050	Division of improved zoning lots
21.60.060	Location of required open space
21.60.070	Fences, walls and hedges
21.60.080	Objects in required yards

21.60.010 **Purpose**

This chapter lists use and development standards that are supplemental to the requirements set forth in Divisions III and IV of this zoning code.

21.60.020 Uses without buildings

Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for the lot shall be provided and maintained unless otherwise stipulated in this Zoning Code; except, that side yards are not required on lots used for garden purposes without buildings or structures or on lots used for public recreation areas.

21.60.030 One principal building per lot

Except in the case of special exceptions and planned developments, not more than one principal detached residential building shall be located on a zoning lot, and a principal detached residential building shall not be located on the same zoning lot with any other principal building [CG1].

21.60.040 Yard and lot area maintenance and conformity

- A. The maintenance of yards and other open space and minimum lot area legally required for a building is a continuing obligation of the owner of the building or of the property on which it is located, as long as the building is in existence.
- B. No legally required yards, other open space, or minimum lot area allocated to any building, by virtue of change of ownership or for any other reason, shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

21.60.050 Division of improved zoning lots

No improved zoning lot shall be divided into two or more zoning lots and no portion of any improved zoning lot shall be sold, unless all improved zoning lots resulting from each division or sale conform with all the applicable bulk regulations of the zoning district in which the property is located.

21.60.060 Location of required open space

All yards and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as the building or dwelling group.

21.60.070 Fences, walls and hedges

A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit issued in accordance with Section 17.34.010 of the Annapolis City Code.

21.60.080 Objects in required yards

The following are not obstructions when located in the required yards:

A. All yards:

- 1. Open terraces and decks not over four feet above the average level of the adjoining ground, but not including a permanent roof-over terrace or perch[CG2],
- 2. Awnings and canopies,
- 3. Steps four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley,
- 4. Grade-level walks and driveways,
- 5. Chimneys projecting 18 inches or less into a yard,
- 6. Recreational and laundry-drying equipment,
- 7. Arbors and trellises,
- 8. Flagpoles, and
- 9. Fences, walls and hedges for which required permits have been issued in accordance with Chapter 17.34of the City Code.

B. Front yards:

- 1. One-story bay windows projecting three feet or less into a yard,
- 2. Overhanging eaves and gutters projecting three feet or less into the yard,
- 3. Fuel, air and water pumps in conjunction with motor vehicle service stations; provided, that they are set back at least 15 feet from the front lot line, and
- 4. Canopies in conjunction with motor vehicle service stations subject to the site design plan review requirements of Chapter 21.22;

C. Rear yards:

- 1. Open off-street parking spaces,
- 2. Balconies,
- 3. Open porches,
- 4. One-story bay windows projecting three feet or less into the yard, and
- 5. Overhanging eaves and gutters projecting three feet or less into the yard;

D. Side yards:

- 1. Overhanging eaves and gutters projecting 18 inches or less into the yard, and
- 2. Fuel, air and water pumps in conjunction with automobile service stations; provided, that they are set back at least 15 feet from the side lot line.

Chapter 21.62 Site Design Standards

Sections

21.62.010	Applicability
21.62.020	General design standards
21.62.030	Other site design standards

21.62.010 Applicability

- A. The standards in this chapter shall apply to properties that are the subject of an application for site design plan approval. The standards intended to provide a framework within which the applicant is free to exercise creativity, invention and innovation in order to meet the purpose of site design plan review as set forth in Section 21.22.010. The standards do not require or favor unduly any particular architectural style.
- B. In the event of a conflict between the standards set forth in this section and any other applicable standards, the more restrictive standard shall apply

21.62.020 General design standards

A. Relation of Buildings and Structures to the Surrounding Environment

Proposed structures shall be related harmoniously to themselves, to the terrain, to existing buildings and roads in the vicinity that have a visual relationship to the proposed structures, and to the historic character of the City of Annapolis. The achievement of a harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Building bulk and scale shall relate to adjacent and surrounding buildings. Appropriate natural or artificial screening may be required to minimize any adverse impacts.

B. Relation of Structures to Adjacent Development

The construction of new buildings should look appropriate and compatible as part of their surroundings. In general, new development should be human in scale, with building facade articulation (doors, windows and surface treatment and detailing) open spaces, and access systems designed to relate to and to welcome people on foot. Buildings also must be sensitive to the character of the neighborhood in which they are located. The following standards shall apply to any development or redevelopment for a particular area:

- 1. **Height.** Except where otherwise restricted by this Zoning Code, the variation between the height of the new building and the height of adjacent buildings should not be so great as to substantially impair the architectural character and integrity of adjoining buildings.
- 2. **Width and Facade.** A new or altered building should reflect the characteristic rhythm of surrounding facades. The mass of the facade of a new building should be divided into elements with size and proportions similar to those of adjoining and nearby structures, including where appropriate those structures across the street, and should be consistent with the development and redevelopment goals of the area.

- 3. **Proportion.** A new or altered building should respect the characteristic proportion of existing facades of adjoining and nearby buildings and be consistent with the development or redevelopment goals of the area.
- 4. **Mass.** The mass of large-scale buildings should complement the size and proportions of the predominant features on the block on which it is located.
- 5. **Relationship to Street.** A new or altered facade should have a relationship to the street compatible with those of adjoining and nearby buildings.
- 6. **Roof Forms.** The type of roof used should be compatible with the roofs formed on adjacent and nearby buildings.
- 7. **Composition.** The composition of a new or altered facade should be complementary to the composition of facades of adjoining and nearby buildings.
- 8. **Rhythm.** Rhythms which carry throughout a block should be incorporated into a new facade.
- 9. **Proportion of Openings.** The size and proportions of window and door openings, as well as the ratio of window area to solid wall area for the facade as a whole, should be similar to adjoining and nearby facades in historic or preservation areas.
- 10. **Façade Materials.** A new or altered facade should be composed of materials that complement adjacent and nearby facades.
- 11. **Color.** Color treatment for new or altered buildings should complement color treatments of adjoining and nearby buildings.
- 12. **Corner and Through Lots.** The two facades of a building situated on a corner lot or through lot shall relate to the scale of the buildings on their respective streets. Corner buildings should complete the street form.

C. Landscaping and Open Space

- 1. Existing features. Disturbance of existing vegetation, topography and soils should be minimized. Efforts shall be made to preserve street trees, mature trees, trees of a diameter of four inches or above measured four feet above ground level, and trees of unique varieties. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. All planting and maintenance shall adhere to the requirements of Chapter 14.12.
- 2. Buffer areas. All sites shall be landscaped appropriately to provide buffer areas to provide shade and reduce heat, noise, air pollution, and to screen adverse visual impacts. Designated buffer areas shall not be utilized for structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, and signage, except that access roads or required utilities may dissect a perimeter buffer or other minimal disturbance may be allowed if the integrity of the natural buffer is preserved. Buffers with existing mature trees and other vegetation shall remain in their natural state where practical and shall not be graded.

3. **[=]** feryards[CG3]

- a. Bufferyards have the following purposes:
 - i. Minimize potential nuisances such as dirt, litter, noise, glare, signs, and unsightly buildings or parking areas;
 - ii. Provide spacing to reduce adverse impacts of noise, odor, or danger of fires; and
 - iii. Enhance the visual character of the streetscape along street frontages for developing and redeveloping properties.
- b. Requirements for bufferyards are set forth in the zoning district bulk regulations tables, Chapter 21.50.
- 4. **Open Space.** Areas of usable open space should be provided on site in order to afford visual relief. This open space area should be landscaped though the surface treatment and need not be entirely living ground cover.
- 5. **Site landscaping.** Landscaping should be provided within the site in order to integrate a building into the overall site design, soften the mass of the building and separate the building from the parking area. Building area landscaping should be located in order to be visible from adjacent streets.
- 6. **Parking lot landscaping.** Landscape plans, when specifically required, shall be prepared in accordance with *Parking and Landscaping: A Manual of Landscape Standards for Parking Lots, Department of Planning and Zoning, Revised 1986. [CG4]*

D. Street = es[CG5]

- 1. In determining the location for the installation of street trees in the public right-of-way, consideration should be given to the location of underground utilities, the relationship of tree planting to parking, the width of the sidewalk, and other street considerations.
- 2. When installed, trees would be set back from the curb. Plantings should be placed to the front of on-street parking spaces to not interfere with the opening or closing of car doors.
- 3. Trees should not be installed in locations which will obstruct views or otherwise produce dangerous traffic conditions.
- 4. Trees should be located at least 25 feet from intersections, 15 feet from driveways and 15 feet from hydrants.
- 5. Tree plantings shall be consistent with the City of Annapolis Street Tree Master Plan, 1977.

E. Scenic, Historic, Archaeological and Landmark Sites and Views

Scenic, historical, archaeological and landmark sites and features that are located on or adjacent to the proposed development shall be preserved and protected to the maximum extent as practicable through site design, building location, and parking layout. Special consideration

shall be given to the impact of projects on views of the Annapolis historic district from the following points:

- 1. From Eastport and the city dock;
- 2. From Truxtun Park; and
- 3. From the Severn River Scenic Overlook.

F. Transitional Provisions for Development Adjoining Residential Districts

Where a development adjoins a residential district, special consideration shall be given to transitional devices as landscaped pathways, increased setbacks, screening, the relationship of the height of buildings on adjoining lots, the distance between buildings on adjoining lots and the landscaping of transitional yards as may be required by the district regulations. Transitional devices shall be incorporated as appropriate on the lot with the higher intensity of land use, to integrate the new development with existing development on the lot with the lower intensity of land use.

G. Surface Water Drainage

A proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves existing natural drainage patterns and wetlands, enhances groundwater recharge areas, and that protects other properties and existing natural and artificial drainage features from the adverse effects of flooding, erosion and the depositing of silt, gravel or stone. A stormwater management plan is required to be submitted to the Director of Public Works for review and approval under Chapter 17.10 of the Annapolis City Code.

H. Driveway Connections to Public Streets

All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and to afford maximum safety to traffic on the public streets. All entrances and exits shall be located and designed to:

- 1. Conform with sight triangle requirements at street intersections.
- 2. Achieve maximum practicable distance from street intersections and from existing and proposed access connections from adjacent properties.
- 3. Minimize left-hand turns, other turning movements, and prohibit backing movements onto a public right-of-way.
- 4. Discourage the routing of commercial vehicular traffic to and through streets serving primarily residential uses.
- 5. Minimize multiple access points on major collector and arterial streets. Where feasible, joint access among adjacent properties shall be provided.

I. Traffic

A development proposal generally shall minimize adverse traffic impacts on the road network serving the area. Determination of traffic impact and required mitigation shall be made through a suitable traffic impact analysis of the proposed use on the road network and affected interesting [CG6].

J. Pedestrian and Bicycle Circulation

- 1. Safe and convenient pedestrian and bicycle circulation, including appropriate sidewalks, shall be provided on the site and its approaches.
- 2. To the maximum extent practicable, pedestrian and bicycle circulation shall be separated from motor vehicle circulation.
- 3. A pedestrian and bicycle circulation plan, when required, shall be designed to minimize adverse effects of vehicular traffic upon pedestrian and bicycle routes and to enhance the integration of these physical components of the circulation system.
- 4. Where a public pedestrian walkway is required pursuant to the specific requirements for a zoning district, it shall be constructed in accordance with the following ctandard[CG7]:

Add walkway diagram graphic (former Section 21.54.090)

K. Parking and Vehicular Circulation

The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. Parking areas shall not be located within 100 feet of the waterfront. To the maximum extent practicable, sites shall be designed to:

- 1. Locate parking areas in a manner that does not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape.
- 2. Minimize lot frontage of parking areas on streets and shield parking areas from public view.
- 3. Adequately provide for access by police, fire, refuse and emergency vehicles.
- 4. Vary the surface treatment of parking lots to differentiate vehicular from pedestrian travelways.
- 5. Use nontraditional surface materials within those areas of the parking lot used for overflow or infrequent parking.

L. Utility Services

If feasible, electric, telephone and other wire-served connections shall be placed underground and subject to state public utilities regulations. Any utility installations remaining aboveground shall be located in order to have a harmonious relation to neighboring properties and to the site.

M. Disposal of Wastes

There shall be adequate provision for the disposal of all solid, liquid and gaseous wastes and for the avoidance of odors and other air pollutants that may be generated at the site. All applicable federal, state, county and local pollution control standards shall be observed.

N. Noise

Control of all outside noise expected to be generated by the site, shall be in accordance with all applicable federal, state and local regulations.

O. Storage, Loading and Service Areas

Outside storage areas, machinery service areas, truck loading areas, utility buildings and structures and similar accessory uses and structures shall be subject to setbacks, screen plantings or other reasonable screening methods determined to be required to prevent any adverse effect upon the environment or nearby property.

21.62.030 Other site design standards

- A. In addition to the standards in Section 21.62.020, a project may also be subject to additional design standards established for a particular geographic area or for a particular use pursuant to other sections of this Zoning Code.
- B. The Planning Commission, after public hearing, may adopt additional design standards which are supplementary to, but not in conflict with, the standards specified in this chapter [2][8].

Chapter 21.64 Standards for Uses Subject to Standards

Note that parking provisions in this Chapter may be moved to the parking chapter when complete

Sections	
21.64.010	Purpose
21.64.020	Adult bookstore
21.64.030	Antique stores
21.64.040	Apartment hotels
21.64.050	Arts and crafts stores
21.64.060	Arts and crafts studios
21.64.070	Bake shops
21.64.080	Bed and breakfast homes
21.64.090	Bed and breakfast home in a structure constructed or erected after December 14, 1998 on
	a vacant lot of record
21.64.100	Candy stores including candy making
21.64.110	Catering establishments
21.64.120	Christmas tree and greens sales
21.64.130	Clubs, lodges and meeting halls, with on-premises food or beverage preparation facilities
21.64.140	Coffee shops
21.64.150	Convenience stores
21.64.160	Day care, family
21.64.170	Day care centers, child
21.64.180	Day care centers, group, in conjunction with public school facilities or with a principal
	religious institution
21.64.190	Delicatessens
21.64.200	Dwellings, multi-family
21.64.210	Dwellings, multi-family containing six or fewer dwelling units
21.64.220	Dwellings, multi-family, containing 12 or fewer units
21.64.230	Dwellings, single-family attached
21.64.240	Dwellings, two-family attached
21.64.250	Dwellings, two-family detached
21.64.260	Food and beverage-related uses
21.64.270	Food service marts
21.64.280	Garden supply, tool and seed stores
21.64.290	Home occupations
21.64.300	Hotels with up to 40 rooms, including restaurants and conference room facilities
21.64.310	Ice cream stores
21.64.320	Inns
21.64.330	Institutions for the care of the aged
21.64.340	Living quarters, detached, for persons employed on the premises
21.64.350	Markets, open air
21.64.360	Maritime retail
21.64.370	Medical appliance stores
21.64.380	Mooring slip or dock, private
21.64.390	Neighborhood convenience shopping uses in the PM2 District
21.64.400	Offices, business and professional, and nonprofit, educational, cultural, or civic

21.64.410	Office or studio of a professional person
21.64.420	On-land boat storage
21.64.430	Parking garages
21.64.440	Parking Lots
21.64.450	Parking structures as accessory to permitted maritime uses on a separate zoning lot
21.64.460	Personal care establishments
21.64.470	Philanthropic and charitable institutions, civic nonprofit organizations, and social and
	fraternal organizations
21.64.480	Planned developments
21.64.490	Professional offices
21.64.500	Restaurants, fast food
21.64.510	Restaurants, standard
21.64.520	Retail sales of non maritime-related goods
21.64.530	Sidewalk cafes
21.64.540	Specialty convenience retail stores
21.64.550	Supermarkets
21.64.560	Temporary uses
21.64.570	Theaters, indoor
21.64.580	Theaters, indoor, located in shopping centers
21.64.590	Transient boater services

21.64.010 Purpose

- A. This chapter lists the standards that apply to uses listed as subject to standards in the use tables Chapter 21.48 of this Zoning Code.
- B. In the case of a use requiring special exception approval, the standards in for the use must be met in addition to the general standards for approving a special exception [CG9].

21.64.020 Adult bookstores

Video sales may be permitted as an accessory use to the special exception.

21.64.030 Antique stores

- A. This use may be provided only on a ground floor.
- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than fifty percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.040 Apartment hotels

A. In apartment hotels containing 40 or more dwelling units the following uses are permitted: restaurants, drugstores, retail food shops, valet shops, beauty shops, barbershops, gift shops and physical health facilities (including massage, steam bath, gym).

B. The uses in subsection A. shall be accessible only through the lobby, with no advertising or display visible from outside the building.

21.64.050 Arts and crafts stores

- A. This use may be provided only on a ground floor.
- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than fifty percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.060 Arts and crafts studios

- A. This use may be provided only on a ground floor.
- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than 50 percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.070 Bake shops

See Food and beverage-related uses.

21.64.080 Bed and breakfast homes

- A. C1, C1A, R2-Neighborhood Conservation, R3-Neighborhood Conservation 2, and Office and Commercial Design Overlay districts:
 - 1. Number and location of bed and breakfast homes:
 - a. C1, C1A, R2-Neighborhood Conservation, and Office and Commercial Design Overlay districts:
 - i. For each side of a block between two intersecting streets there shall be no more than two bed and breakfast homes
 - ii. No two bed and breakfast homes shall be located on adjacent properties with the exception of any bed and breakfast homes holding a valid, current license issued by the city pursuant to Chapter 17.44 as of June 20, 1994,
 - iii. No bed and breakfast home shall be located in an attached dwelling with the exception of any bed and breakfast homes holding a valid, current license issued by the city pursuant to Chapter 17.44 as of June 20, 1994.

b. R3-Neighborhood Conservation 2 district:

- i. There shall be no more than one bed and breakfast home for every block on any street located in the district and no two bed and breakfast homes shall be located on adjacent properties.
- ii. No bed and breakfast home shall be located in an attached or multi-family dwelling.
- iii. The individual recorded owner of the property shall be the operator of the bed and breakfast and reside on the premises. No resident managers shall be allowed to operate a bed and breakfast.
- iv. The number of guests shall not exceed the maximum allowed by the life safety code.
- v. There shall be only one kitchen within the entire dwelling. No cooking facilities are permitted in guest rooms.
- vi. No food or beverage service may be provided for transient guests other than breakfast provided in the areas of the dwelling commonly used by the resident family for the consumption of food.
- vii. Bed and breakfast homes shall not have a separate apartment within the entire dwelling or on the subject property such as a carriage house, garage, etc.
- viii. Bed and breakfast homes shall have interior stairs to serve all habitable living spaces within the entire dwelling including basements and attics, except that this provision does not apply in the C1 or C1A districts to any bed and breakfast homes holding a valid, current license issued by the city pursuant to Chapter 17.44 as of June 20, 1994.
- ix. The owner(s) of record of the property shall obtain a rental license from the Department of Public Works.
- x. The resident owner shall keep a current guest register including names, addresses and dates of occupancy of all guests available for inspection by the licensing agency.
- 2. The use shall be subject to all applicable city code regulations including but not limited to building, fire, and health regulations.
- 3. In the R2-Neighborhood Conservation district no bed and breakfast license is required for special events including multi-day graduation events and multi-day boating event and other similar events as determined by the Director of Planning and Zoning.
- 4. In the C1 and C1A districts, in the case of a license for a bed and breakfast home holding a valid, current license issued by the city pursuant to Chapter 17.44 as of June 20, 1994 nothing in this Zoning Code shall preclude the renewal or transfer of that license.

- 5. Special provisions for the R2-Neighborhood Conservation and R3- Neighborhood Conservation 2 districts
 - a. The bed and breakfast use shall be subordinate and incidental to the principal residential use of the property and located within an existing structure.
 - b. Bedroom rental units may not occupy more than 60 percent of the living space of the single-family dwelling.
 - c. The applicant for a bed and breakfast license shall post a public notice on the property indicating that a bed and breakfast license for the property is being sought. This sign shall contain such information as may be required by the Director of Planning and Zoning shall be posted for a period of not less than ten days.

B. R3-Neighborhood Conservation

This use is permitted in principal structures existing on October 10, [Signature 10] [CG10] subject to the standards in this section. A structure may be enlarged by a maximum of 50 percent of the overall floor area existing on October 10, 1988 to maintain classification as an existing structure. Enlargements in excess of fifty percent shall be considered new construction.

- 1. An owner shall live on the premises,
- 2. The facility shall be part of the dwelling unit and have no more than one nonresident employee,
- 3. No separate kitchens shall be provided.
- 4. No food or beverage service may be provided for transient guests other than breakfast provided in the areas of the dwelling commonly used by the resident family for the consumption of food,
- 5. Notwithstanding the definition of bed and breakfast home in Division VI, a maximum of six guest rooms are allowed with no maximum duration-of-stay restrictions.

21.64.090 Bed and breakfast home in a structure constructed or erected after December 14, 1998 on a vacant lot of record

Where this use is established after the fifth anniversary of the structure's original occupancy permit, the use may be permitted as a matter of right subject to the standards for bed and breakfast homes in the R2-Neighborhood Conservation district

21.64.100 Candy stores including candy making

See Food and beverage-related uses.

21.64.110 Catering establishments

See Food and beverage-related uses.

21.64.120 Christmas tree and greens sales

- A. Sales are allowed only on a seasonal basis.
- B. No permanent structures shall be erected in conjunction with the sales.
- C. Portable tables and umbrellas may be utilized for the sales.
- D. Site design review under Chapter 21.62 is required.
- E. Where it can be demonstrated that there is no negative impact on the availability of parking for such other uses as may occupy the site, an asdjustment to the parking requirement may be granted at the discretion of the Director of Planning and Zoning in order to utilize those parking spaces for the temporary use.
- F. No use may be made of landscape buffers for sales.
- G. The Department of Planning and Zoning may establish requirements for hours of operation, refuse removal and deliveries.
- H. Refuse containers shall be provided and the cleanliness of the site and adjacent areas, as defined by the Department of Planning and Zoning, shall be maintained.

21.64.130 Clubs, lodges and meeting halls, with on-premises food or beverage preparation facilities

See Food and beverage-related uses.

21.64.140 Coffee shops

See Food and beverage-related uses.

21.64.150 Convenience [=]res[CG11]

- A. Convenience stores shall comply with the standards for Food and beverage-related uses.
- B. In the B1, B2, B3, B3-CD districts, and the BCE district without a special exception, the use is limited to 4,000 square feet gross floor area and 200 square feet of area devoted to food preparation.

21.64.160 Day care, family

- A. Operators of family day care homes must be residents of the principal building on the zoning lot, and not more than one nonresident of the zoning lot may be employed in the family day care home at any given time;
- B. No off-street parking provided for a family day care shall be located in a required front yard. In the instance of a family day care home in the R1, R1-A, R1-B, R2, and R2-Neighborhood Conservation districts involving a nonresident employee, one additional off-street parking place shall be provided;

C. No family day care shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no family day care home exists;

21.64.170 Day care centers, child

- A. There shall be provided 37.5 square feet of usable outdoor recreation area for each child that may use the space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential areas. Usable outdoor recreation area shall be limited to:
 - 1. Those areas that are not covered by buildings, structures or required off-street parking spaces,
 - 2. That area outside the limits of the required front yard and all transitional yards,
 - 3. Only that area which is developable for active outdoor recreation purposes, and
 - 4. An area which occupies no more than eighty percent of the combined total areas of the required rear and side yards.
- B. The use shall comply with Article 88A of the Annotated Code of Maryland and the State Department of Human Resources regulations regarding group day care centers.
- C. All such uses shall be located so as to permit the safe pick-up and delivery of all persons on the site.

21.64.180 Day care centers, group, in conjunction with public school facilities or with a principal religious institution

- A. The use is subject to review and approval by the Department of Planning and Zoning.
- B. A minimum usable outdoor recreation area of 50 square feet per child shall be provided. Such area shall be located to ensure a safe and secure play area and be sufficiently buffered from adjacent residential areas.
- C. A safe on-site drop-off and pick-up area shall be provided.
- D. Adequate on-site parking sufficient to accommodate the users of the facility shall be provided, with signage to reserve spaces for the day care center.
- E. The center shall comply with all the licensing requirements under Article 88A of the Annotated Code of Maryland.

21.64.190 Delicatessens

Delicatessens are subject to the general standards for Food and beverage-related uses. The following additional standards apply:

- A. Delicatessens may not have bars, dancing, live entertainment, or drive-in windows.
- B. The service of alcoholic beverages shall be limited to beer and wine only, served on premises with meals, or sold prepackaged for off-premises consumption.
- C. In the WMI-district, delicatessens are only permitted as an accessory use, and are limited to 1,000 square feet gross floor area.
- D. In the WME-district, delicatessens are only permitted as an accessory use on lots greater than 10,000 square feet in area, and are limited to 1,000 square feet gross floor area.

21.64.200 Dwellings, multi-family

A. C1 = rict[CG12]

- 1. In addition to proposed new uses, the following uses require special exception approval:
 - a. Any change or expansion of the bulk or any structural modifications, including extensions, enlargements or alterations which increase or decrease the floor area of a particular use, or
 - b. The expansion or extension of a special exception for part of a building or structure, the remainder of which is utilized for a use permitted in the district.
- 2. The gross floor area of a dwelling unit on an individual lot of record may be expanded by up to 20 percent of the total floor area, provided the proposed addition complies with all other requirements of the district and provided that no previous expansion has been granted pursuant to this section.

B. MX district

- 1. Notwithstanding any other provision of *Chapter 21.94*, a minimum of one off-street parking space shall be provided for each dwelling unit. *This text may be moved to parking*.
- 2. On lots of 40,000 square feet or greater, permanent usable common open space equal to ten percent of the lot area shall be identified and dedicated for passive recreational activities or limited active recreation. In the case of attached units, each unit shall have an individual rear yard which may be included in calculating the required common open space. The area required for parking lot landscaping or buffers shall not be included in the open space calculation.
- 3. Pedestrian traffic through and around the use shall be separated from driveways and parking areas through the use of sidewalks.
- 4. If surface parking is located on the zoning lot, it shall be located at the rear of the zoning lot and new structures shall be located at the front of the zoning lot.
- 5. If surface parking located on the zoning lot is adjacent to single-family residential use, dense plantings shall be installed and maintained on the zoning lot to provide an effective screen.

21.64.210 Dwellings, multi-family containing six or fewer dwelling units

This use is permitted in principal structures existing on October 10, 1988 subject to the standards in this section. A structure may be enlarged by a maximum of 50 percent of the overall floor area existing on October 10, 1988 [CG13]to maintain classification as an existing structure. Enlargements in excess of 50 percent shall considered new construction.

- A. Permanent usable common open space, as required, shall be identified and dedicated for passive recreational activities [CG14].
- B. All trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.
- C. Pedestrian traffic through and around the project shall be separated from driveways and parking areas.

21.64.220 Dwellings, multi-family, containing 12 or fewer units

This use is permitted when it is provided above the first floor in conjunction with office or commercial uses and is subject to the following standards:

- A. All trash and refuse shall be stored in self-enclosed trash storage areas. Trash areas shall be screened in an appropriate manner using a board on board enclosure.
- B. Permanent common open space shall be provided for multifamily uses. The permanent common open space shall be used for either:
 - 1. Passive recreational amenities such as outdoor eating; and/or
 - 2. Recreational space for limited active recreational activities.
- C. Pedestrian traffic through and around the project shall be separated from driveways and parking lots through the use of sidewalks.
- D. Parking areas shall be provided at the rear of the site and structures shall be located at the front of site.

21.64.230 Dwellings, single-family attached

- A. In the MX district this use is subject to the same standards as apply to multi-family dwellings in the MX district.
- B. In the C1 district this use is subject to the same standards as apply to multi-family dwellings in the C1 district.

21.64.240 Dwellings, two-family attached

In the C1 district this use is subject to the same standards as apply to multi-family dwellings in the C1 district.

21.64.250 Dwellings, two-family detached

In the C1 district this use is subject to the same standards as apply to multi-family dwellings in the C1 district.

21.64.260 Food and beverage-related uses

- A. **Applicability.** The standards in this section apply to the following uses:
 - 1. Bake shops,
 - 2. Candy stores including candy making,
 - 3. Catering establishments,
 - 4. Clubs, lodges and meeting halls, with on-premises food or beverage preparation facilities,
 - 5. Coffee shops,
 - 6. Convenience stores,
 - 7. Delicatessens,
 - 8. Fast food restaurants
 - 9. Food service marts,
 - 10. Ice cream stores,
 - 11. Markets, open air,
 - 12. Standard restaurants, and
 - 13. Supermarkets.
- B. A site design plan for the use is required pursuant to Chapter 21.22.
- C. Noise emanating from the use shall not be of such a volume to disturb the quiet and enjoyment of property in any nearby residential zoning districts.
- D. Loitering is not permitted around the exterior of the use.
- E. Kitchens and food preparation areas shall be designed, maintained and operated in a manner to minimize noise and odors, and to eliminate grease flows into city sewers in strict adherence to the city's plumbing code. An outdoor spigot shall be installed if required.
- F. The use shall comply with the City's Comprehensive Plan and any sector plans applicable to the area where the use will be located.
- G. Trash

- 1. All trash and refuse shall be stored in self-enclosed trash storage areas. These trash storage areas shall be located either within the establishment or within the structure on which the establishment is located, or shall consist of a properly screened and maintained dumpster on the property on which the establishment is located.
- 2. Except where trash is placed in accordance with paragraph F.1 of this section, trash receptacles shall not be placed outside for pick-up until one-half hour prior to the scheduled pick-up time and shall be removed within one-half hour after trash pick-up.
- 3. The cleanliness of all trash storage areas and all sidewalks adjoining the establishment shall be maintained.
- H. C2 and C2A districts. In the C2 and C2A districts, the following standards apply:
 - 1. No food service establishment shall be allowed in a building which fronts on, or whose side yard is contiguous with, residential use on the following streets:
 - a. Prince George Street;
 - b. Randall, between Dock Street and King George;
 - c. Cornhill Street;
 - d. Fleet Street;
 - e. Green Street;
 - f. Upper Duke of Gloucester Street from Church Circle to a point on Duke of Gloucester Street 215 feet from the centerline of Church Circle;
 - g. Newman Street;
 - h. St. Mary's Street; and
 - i. Maryland Avenue between Prince George and King George Streets.
 - 2. The provisions of subsection 1. above shall not apply to restaurant/ food service and bars existing as of June 13, 1994.
 - 3. Revenues from alcohol sales shall not exceed 50 percent of total revenues. This limitation shall not apply to restaurants existing prior to June 13, 1994. All restaurants, established after June 13, 1994, shall report annually the ratio of food revenues to total revenues.
 - 4. Restaurants serving alcoholic beverages may not remain open beyond 12:00 midnight. The limitation contained in this section shall not apply to (i) any restaurant licensed to remain open beyond 12:00 midnight as of June 13, 1994 and (ii) any restaurant that shall become licensed to remain open beyond 12:00 midnight as a result of a special exception permit granted after June 13, 1994 provided said special exception permit was applied for before September 27, 1993.
 - 5. Expansion

- a. All proposed expansions of restaurants are subject to the special exception process of this Zoning Code, however restaurants existing as of June 13, 1994 shall not be required to provide the report described in subsection H.3. of this section for its expansion.
- b. The expansion of a restaurant established after June 13, 1994 is subject to subsection H.4 of this section. The 12:00 midnight limitation of subsection H.4 shall not apply to the expansion of:
 - i. Restaurants licensed to remain open beyond midnight as of June 13, 1994; and
 - ii. Any restaurant that shall become licensed to remain open beyond 12:00 midnight as a result of a special exception permit granted after June 13, 1994 provided special exception was applied for before September 27, 1993.

21.64.270 Food service marts

Food service marts are subject to the general standards for Food and beverage-related uses. The following additional standards apply:

- A. Bars, dancing or live entertainment are not permitted.
- B. The service of alcoholic beverages is limited to beer and wine only and sold prepackaged for off-premises consumption.
- C. The service of food items for immediate consumption, off the premises, may occur accessory to the principal use.
- D. In the WMI district, this use is only permitted as an accessory use and is limited to 1,000 square feet gross floor area.
- E. In the WME district, this use is only permitted as an accessory use on lots greater than 10,000 square feet in area, and is limited to 1,000 square feet gross floor area.

21.64.280 Garden supply, tool and seed stores

All business must be conducted indoors.

21.64.290 Home occupations

- A. **Area.** The total floor area utilized for the occupation, including both indoor and outdoor areas, shall not exceed 25 percent of the total floor area of the dwelling unit.
- B. **Operators.** Operators of home occupations must be residents of the principal building on the zoning lot; and not more than one nonresident of the zoning lot may be employed in the occupation.
- C. **Permitted occupations.** Home occupations may include the uses listed below:
 - 1. Arts and crafts studios,

- 2. Beauty parlors limited to one chair This use is permitted in the R4-Revitalization district only,
- 3. Business and professional offices,
- 4. Computer services,
- 5. Dressmaking, tailoring and similar uses,
- 6. Photography studios,
- 7. Repair services for bicycles, cameras, clocks, computers, jewelry, or small appliances,
- 8. Tutoring, including music and dance, and
- 9. Other similar uses consistent with the provisions of this section.
- D. **Prohibited occupations.** The following uses are not permitted as home occupations:
 - 1. Beauty parlors including hairdressing, except as otherwise permitted in this section,
 - 2. Food preparation services including catering,
 - 3. Furniture refinishing,
 - 4. Rental services,
 - 5. Manufacturing and processing operations other than the production of arts and crafts,
 - 6. Motor vehicle sales, repair or painting; and
 - 7. Other uses inconsistent with the provisions of this section.
- E. **On premise sales.** Home occupations shall not sell goods on the premises in the same form as that in which the goods are purchased by the operators; and only articles or services produced on the premises shall be displayed or sold.
- F. **Appearance and character.** A home occupation shall not alter the residential appearance and character of the dwelling, accessory building, or zoning lot.
- G. **Exterior evidence.** There shall be no exterior evidence, other than a sign, to indicate that the lot is being used for any purpose other than that of a dwelling. Exterior evidence shall include outdoor display or storage of merchandise or of service vehicles, noise, dust, vibration, glare, fumes, odors or extensive parking area.

H. Parking

- 1. Where a home occupation has a nonresident employee, one additional off-street parking place shall be provided.
- 2. No off-street parking provided for a home occupation shall be located in a required front yard.

21.64.300 Hotels with up to 40 rooms, including restaurants and conference room facilities

- A. Notwithstanding any other provision of Chapter 21.94, parking spaces equal to not less than 33 percent of the number of lodging rooms at the hotel shall be provided. Parking shall be provided either on the zoning lot, or off of the zoning lot; provided a valet parking drop-off station is located on the zoning lot or a combination of both. This requirement may be waived in whole or in part by the director of planning and zoning upon a showing that there is adequate parking within eight hundred feet of the zoning lot; *This text may be moved to parking*.
- B. If surface parking is located on the zoning lot, it shall be located at the side and/or the rear of the zoning lot and new structures shall be located at the front of the zoning lot. If surface parking located on the zoning lot is adjacent to single-family residential use, dense plantings shall be installed and maintained to provide an effective screen on the zoning lot;
- C. Pedestrian traffic through and around the use shall be separated from driveways and parking areas through the use of sidewalks;
- D. Food service shall be subject to the standards for Food and beverage-related uses.
- E. If a conference room facility is to be utilized by persons other than guests of the hotel, the number of parking spaces required under paragraph A. above shall be increased by a number equal to 30 percent of the maximum capacity of the conference room facility.

21.64.310 Ice cream stores

- A. Ice cream stores are subject to the general standards for Food and beverage-related uses.
- B. Ice cream stores are limited to 2,000 square feet of gross floor area.
- C. The sale of non-ice cream food items for consumption off the premises, other than beverages, is not permitted.

21.64.320 Inns

The purpose of the inn special exception where subject to standards is to promote the preservation of large parcels of residentially zoned land by allowing appropriately located property to be developed as an inn through the special exception process. It is intended that these inns shall be located in existing structures on a parcel of land of sufficient size that the impacts of the use will be minimized. Because this section will allow the commercial use of residentially zoned property, special exception approval is subject to additional specific findings contained in this section. Development of an inn must ensure compatibility with the character of the surrounding area, in addition to other applicable standards. The following are the minimum standards which must be met before a property may be considered for a special exception as an inn.

A. **Existing structure.** The inn shall be located in a single family dwelling on a lot of record, provided both exist as of January 13, 1997. No new dwelling or lot may be created for purpose of this use and no dwellings may be demolished for the purpose of this use.

- B. **Road Access.** The lot shall have access to a collector or arterial street without going through an established residential community or neighborhood.
- C. **Signs.** Signs shall be compatible with the character of the underlying zone.
- D. Site design plan review is required.
- E. All alterations and additions to the existing dwelling shall preserve the character and design of the existing dwelling.
- F. **Accessory structures.** In addition to the requirements of the underlying zone, the bulk of accessory structures shall be regulated as follows:
 - 1. The height of accessory structures shall not exceed the height of the principal structure.
 - Accessory structures within two feet of any property line except rear property lines adjacent
 to an alley shall have a cornice height not to exceed eight feet and a ridge height of 16 feet.
 Where there are physical constraints or in order to achieve compatible design a two foot
 tolerance to the cornice height and a four foot tolerance to the ridge height may be
 permitted.
 - 3. The cornice and ridge heights of an accessory structure may increase one foot for each one foot of additional setback beyond two feet up to a maximum height of two stories and/or a cornice height of 16 feet and a ridge height of compatible design.

21.64.330 Institutions for the care of the aged

- A. The scope and type of services and facilities required will be as determined appropriate for the specific institution and subject to a determination that the services meet the goals established here in [CG15].
- B. All facilities and services provided by the institution shall meet the definition of accessibility prescribed by the Americans with Disabilities Act (ADA) and all residential or living units of the facility shall meet the ADA definition of adaptability.

21.64.340 Living quarters, detached, for persons employed on the premises

Living quarters may be occupied only by those persons employed and their immediate family.

21.64.350 Markets, open air

See Food and beverage-related uses.

21.64.360 Maritime retail

This use is limited to 25 percent of the gross floor area of development on the lot.

21.64.370 Medical appliance stores

A. This use may be provided only on a ground floor.

- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than 50 percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.380 Mooring slip or dock, private

One slip per 25 feet of waterfront owned is permitted, but not less than one slip as in the case of a lot with less than 25 feet of waterfront[CG16].

21.64.390 Neighborhood convenience shopping uses in the PM2 District

- A. **Applicability.** The standards in this section apply to the following uses:
 - 1. Food stores,
 - 2. Personal care establishments,
 - 3. Retail goods stores, and
 - 4. Specialty convenience retail goods stores.
- B. A site design plan for the use is required.
- C. Appropriate sound suppression techniques shall be employed to ensure that the level of noise emanating from within any establishment will not disturb the quiet and enjoyment of property in any nearby residential zoning districts.
- D. Loitering is not permitted around the exterior of any use.
- E. Kitchens shall be designed, maintained and operated in a manner to minimize noise and odors.
- F. Within an establishment live entertainment is not allowed and any recorded music shall be limited to background variety only.
- G. Hours of deliveries shall be limited, to the extent feasible, based upon proximity of the development to residential land uses and if commercial vehicles require the use of primarily residential roadways to access the commercial development.
- H. Drive-through windows are only permitted upon the preparation and approval of a trafficimpact study and the mitigation of identified impacts.

I. Trash

1. All trash and refuse shall be stored in self-enclosed trash storage areas. These trash storage areas shall be located either within the establishment or within the structure on which the establishment is located, or shall consist of a properly screened and maintained dumpster on the property on which the establishment is located.

- 2. Except where trash is placed in accordance with paragraph 1 of this Section, trash receptacles shall not be placed outside for pick-up until one-half hour prior to the scheduled pick-up time and shall be removed within one-half hour after trash pick-up.
- 3. The cleanliness of all trash storage areas and all sidewalks adjoining the establishment shall be maintained

21.64.400 Offices, business and professional, and nonprofit, educational, cultural, or civic

- A. **B1 district.** In the B1 district, business and professional offices are permitted only above the ground floor of other permitted uses. Offices of nonprofit educational, cultural or civic organizations are permitted on the ground floor.
- B. **P district.** In the P district, this use is permitted by right on lots of 5,400 square feet or more. On lots less than 5,400 square feet the use may be permitted by special exception.
- C. **PM district.** In the PM district, when this use is established on lots less than 5,400 square feet, the following standards apply:
 - 1. All trash and refuse shall be stored in self-enclosed trash storage areas. Trash areas shall be screened in an appropriate manner using a board on board enclosure.
 - 2. Pedestrian traffic through and around the project shall be separated from driveways and parking lots through the use of sidewalks.
 - 3. Parking areas shall be provided at the rear of the site and structures shall be located at the front of site.

21.64.410 Office or studio of a professional person

- A. The use shall be conducted in a building suited to residential use or conforming in appearance to a building suited to residential use,
- B. Sales, storage, or display of goods or advertising material are not permitted.

21.64.420 On-land boat storage

Where dry rack storage facilities are provided under this use, they are subject to the following standards:

- A. Facilities may not be located in a required waterway yard;
- B. Facilities are limited in height to 36 feet; and
- C. Facilities must be screened from view of a public right-of-way.

21.64.430 Parking garages

A. Underground parking garages are a permitted use.

- B. Garages up to three levels of above-grade parking are a permitted use subject to the following standards:
 - 1. The visibility of all parking facilities from any street or residential zoning district shall be minimized whenever possible. Visible facades of parking facilities shall be designed to be compatible with the architectural character of surrounding structures.
 - 2. Measures, as required by the Department of Planning and Zoning, shall be taken to restore the vertical edge of the streetscape.
 - 3. Parking garages in excess of three levels of above-grade parking may be permitted by special exception. The standards for garages up to three levels of above-grade parking must be met in addition to the standards for approving a special exception[CG17].

21.64.440 Parking Lots

A. MX district

- 1. Temporary surface parking lots not to exceed 6 months duration are a permitted use.
- 2. Surface parking other than permitted in subsection A.1. above are subject to the following standards:
 - a. A landscape plan is required;
 - b. Measures shall be taken to screen the view of cars in parking lots;
 - c. A ten foot wide buffer strip at all street edges of the zoning lot shall be reserved for walls or plantings, or a combination thereof in order to screen the zoning lot;
 - d. Plantings and any constructed edge shall be compatible in material, design and scale to the prevailing character of the street.

B. PM district

- a. A landscape plan is required. In cases where parking lots abut a residential zoning district additional planting or screening may be required. [CG18].
- b. All lots shall be signed in an appropriate manner to guide traffic into, around and out of the lot.

21.64.450 Parking structures as accessory to permitted maritime uses on a separate zoning lot

- A. No parking structure shall exceed 28 feet in height, measured at the highest point above existing grade level,
- B. Parking structures should be minimally visible from any street, waterway or residential zoning district. Facades of parking structures must be designed to be compatible with the architectural character of surrounding structures.

C. All structures shall be densely landscaped to provide an effective 50 percent screen.

21.64.460 Personal care establishments

- A. This use may be provided only on a ground floor.
- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than 50 percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.470 Philanthropic and charitable institutions, civic nonprofit organizations, and social and fraternal organizations

This use does not including businesses sponsored by those institutions, except businesses accessory or incidental to and located in the same building as the institution proper.

21.64.480 Planned developments

Planned developments are permitted subject to approval by the Planning Commission or the Board of Appeals pursuant to regulations and procedures set forth in Chapter 21.24.

21.64.490 Professional offices

- A. This use is permitted only in combination with one of the following:
 - 1. A working boatyard of at least 20,000 square feet and a 30-ton boat lift,
 - 2. Seafood processing of 9,000 square feet,
 - 3. On-land boat storage of at least 25,000 square feet, or
 - 4. Yacht and sailing clubs providing in-water and on-land boat storage to their members.
- B. In structures in existence as of August 24, 1987 this use may not exceed 30 percent of the total gross floor area of development on the lot.
- C. In structures constructed after August 24, 1987 the use is also subject to the following:
 - 1. The use may not exceed 25 percent of the total gross floor area of development on the lot.
 - 2. The use is not permitted in buildings or structures within 100 feet of the waterfront or mean high waterline.

21.64.500 Restaurants, fast food

Fast food restaurants are subject to the general standards for Food and beverage-related uses. The following additional standards apply:

- A. Fast-food restaurants may have sit-down seating and delivery service, but may not provide dancing, live entertainment, the service of alcoholic beverages, or a bar.
- B. Outdoor dining may be permitted.
- C. Drive-through service may be permitted, except in the MX district.

21.64.510 Restaurants, standard

Standard restaurants are subject to the general standards for Food and beverage-related uses. The following additional standards apply:

- A. Drive-through service is not permitted.
- B. Catering or delivery service may be permitted as an accessory use.
- C. **B1, B2, B3, B3-CD, and PM districts.** In the B1, B2, B3, B3-CD, and PM districts the following standards apply:
 - 1. Where the use is permitted subject to standards:
 - a. No more than 50 seats are permitted,
 - b. Alcohol is permitted with the service of food,
 - c. Hours of operation are limited to midnight seven days a week,
 - d. Outdoor dining may be permitted, and
 - e. No bar, dancing, or live entertainment is permitted, except in the PM district wherer indoor, live, non-amplified acoustical musical entertainment may be permitted.
 - 2. In the B1 district, unlimited seating may be permitted by special exception.
 - 3. In the B2, B3, B3-CD, and PM districts, the following may be permitted by special exception:
 - a. Unlimited seating, and
 - b. Bar, dancing, and live entertainment.
- D. **BCE** and **BR** districts. In the BCE and BR districts the following may be permitted:
 - 1. Unlimited seating,
 - 2. Outdoor dining, and

3. Bar, dancing, and live entertainment.

E. **MX district.** In the MX district:

- 1. The following are permitted by right:
 - a. Unlimited seating,
 - b. Alcohol with the service of food,
 - c. Outdoor dining, and
 - d. Accessory bars.
- 2. Dancing and live entertainment may be permitted by special exception.
- F. **WMC district.** In the WMC district the following standards apply:
 - 1. The use may only be provided in combination with a principal permitted use.
 - 2. The use may occupy no more than 30 percent of the total gross floor area on the lot.
 - 3. In conjunction with approval of this use the applicant shall construct and maintain a public pedestrian walkway in accordance with the standards set forth in Section 21.62.020.
- G. **WMM district.** In the WMM district the following standards apply:
 - 1. This use is permitted only in combination with one of the following:
 - a. A working boatyard of at least 20,000 square feet and a 30-ton boat lift,
 - b. Seafood processing of at least 9,000 square feet,
 - c. On-land boat storage of at least 25,000 square feet, or
 - d. Yacht and sailing clubs providing in-water and on-land boat storage to their members.
 - 2. In structures in existence as of August 24, 1987 this use may not exceed 30 percent of the total gross floor area of development on the lot.
 - 3. In structures constructed after August 24, 1987 the use is also subject to the following:
 - a. The use may not exceed 25 percent of the total gross floor area of development on the lot.
 - b. The use is not permitted in buildings or structures within 100 feet of the waterfront or mean high waterline.
- H. **WME district**. In the WME district the following standards apply:
 - 1. This use may be permitted only in combination with one of the following:

- a. A working boatyard of at least 20,000 square feet and a 30-ton boat lift, or
- b. Seafood processing of at least 9,000 square feet.
- 2. The lot on which the use is proposed must be at least 20,000 square feet.
- 3. The use may occupy no more than 2,000 square feet of gross floor area on the lot.

21.64.520 Retail sales of non maritime-related goods

A. WMC District

- 1. In structures in existence as of August 24, 1987 this use may not exceed 30 percent of the total gross floor area of development on the lot.
- 2. In structures constructed after August 24, 1987 this use may not exceed 25 percent of the total gross floor area of development on the lot.
- 3. In conjunction with approval of this use the applicant shall construct and maintain a public pedestrian walkway in accordance with the standards set forth in Section 21.62.020.J.

B. WMM District

- 1. This use is permitted only in combination with one of the following:
 - a. A working boatyard of at least 20,000 square feet and a 30-ton boat lift,
 - b. Seafood processing of 9,000 square feet,
 - c. On-land boat storage of at least 25,000 square feet, or
 - d. Yacht and sailing clubs providing in-water and on-land boat storage to their members.
- 2. In structures in existence as of August 24, 1987 this use may not exceed 30 percent of the total gross floor area of development on the lot.
- 3. In structures constructed after August 24, 1987 the use is also subject to the following:
 - a. The use may not exceed 25 percent of the total gross floor area of development on the lot.
 - b. The use is not permitted in buildings or structures within 100 feet of the waterfront or mean high waterline.

21.64.530 Sidewalk cafes

- A. Standard restaurants are subject to the general standards for Food and beverage-related uses.
- B. Sidewalk cafes are also regulated under Chapter 7.42 of this Code.

21.64.540 Specialty convenience retail stores

- A. This use may be provided only on a ground floor.
- B. New construction, expansion or substantial rehabilitation shall not provide commercial or retail uses greater than 50 percent of a structure's gross floor area.
- C. Where this use is established on lots less than 5,400 square feet in size, all trash and refuse shall be stored in self-enclosed trash storage areas. Trash storage areas shall be screened in an appropriate manner using a board-on-board enclosure.

21.64.550 Supermarkets

See Food and beverage-related uses.

21.64.560 **Temporary** [=]:s[CG19]

The following temporary uses are permitted in the zoning districts indicated:

A. All zoning districts

- 1. Storage of building materials and equipment, and temporary buildings for construction purposes, for a period not to exceed the duration of the construction. No yards are required provided that there shall not be undue interference with the use and enjoyment of neighboring property[CG20].
- 2. Use of governmental property, including the erection of a tent or other temporary structure, for a carnival, circus or other activity.
- 3. Use of non-governmental property for up to five days by a nonprofit, educational, cultural, or civic organization for a carnival, street fair, circus or similar activity including the erection of a tent or other temporary structure. The operator must obtain all permits required by law.
- 4. Model homes and real estate tract offices for rental or sale of buildings in a project. A real estate office shall be removed upon the initial sales of all units in a project.
- 5. Yard sales and garage sales, up to 10 days in a calendar year.

B. Waterfront maritime districts

Temporary festivals in conjunction with maritime uses up to 30 days duration,

21.64.570 Theaters, indoor

A. Notwithstanding any other provision of **Chapter 21.94**, parking spaces equal to not less than thirty percent of the maximum seating capacity of the establishment shall be provided on the zoning lot. This requirement may be waived in whole or in part by the director of planning and zoning upon a showing that there is adequate parking within 800 feet of the zoning lot; **This text may be moved to parking.**

- B. If surface parking is located on the zoning lot it shall be located at the rear of the zoning lot and shall be screened from adjacent uses. If surface parking located on the zoning lot is adjacent to single-family residential use, dense plantings shall be installed and maintained to provide an effective screen;
- C. Notwithstanding any other provision of Chapter 21.94, indoor theaters shall be permitted one marquee sign not larger than fifteen percent of the area of the facade on which it is located, but in no event shall the marquee exceed one hundred twenty square feet in area. No other signs shall be permitted; REVIEW IN RELATION TO SIGN REGULATIONS REDRAFT

21.64.580 Theaters, indoor, located in shopping centers

Adequate parking must be provided for the theater and for other uses in the shopping center.

21.64.590 Transient boater services

- A. This use in only permitted when such services are provided in conjunction with in-water boat storage and at least one of the following other maritime uses: seafood industrial, boat repair and maintenance or marine fabrication.
- B. In no case shall such accessory services be located within the 100-foot maritime use setback.

Chapter 21.66 Parking and Loading Regulations

Chapter 21.68 Nonconforming Uses and Structures

Chapter 21.70 Sign Regulations

Page: 2

[CG1] Former 21.06.050; Added "planned developments" as an exception.

Page: 3

[CG2] "Decks" added consistent with current practice by the Department of Planning and Zoning.

Page: 7

[CG3] Several districts have specific bufferyard requirements. A new definition of bufferyard has been added in Division VI. Language in this subsection taken from former 21.71.020 (Corridor Design Overlay) moved here as of general relevance.

Page: 7

[CG4] Current code contains several references to different guidelines or standards. This reference creates one single reference.

Page: 7

[CG5] Moved from former 21.61 PM district as they are of general relevance. Item #5 added, providing a cross reference to Section 14.12.100.

Page: 9

[CG6] Added second sentence language authorizing traffic studies using language currently in other chapters of the code e.g. 21.94.030.

Page: 9

[CG7] This occurs in some of the waterfront disticts.

Page: 10

[CG8] Modeled on language in several districts in current code such as waterfront districts 21.55.090, 21.57.090, PM and Corridor Design Overlay district. Replaced guidelines with standards.

Page: 12

[CG9] B added to clarify this point.

Page: 15

[CG10] Ordinance 43-88

Page: 16

[CG11] Specific requirement for traffic analysis deleted: covered under Site Design Plan 21.62.

Page: 18

[CG12] These provisions from current code 21.02.080

Page: 19

[CG13] Ordinance 43-88

Page: 19

[CG14]20 percent requirement moved to bulk regs table.

Page: 25

[CG15] Standards moved from current definition. Determination currently to be made by planning and zoning director, presumably should be made by body approving the special exception.

Page: 26

[CG16] Moved from the residential district yard tables, for example Table 21.16.040C. This is a use

regulation as opposed to a yard regulation. The statement of no yard requirement is retained in the bulk regulations table.

Page: 28

[CG17] Last sentence added.

Page: 28

[CG18], "Maximize ingress and egress points" standard deleted: it may be desirable to limit the number of access points. Traffic study standard deleted; covered under site design plan review.

Page: 33

[CG19] Some of these moved from former Section 21.02.110 (exempted uses). Added street fair and some standards such as requirement to obtain necessary permits and removal of uses. Yard sale and garage sale listing is new.

Page: 33

[CG20]Second sentence taken from bulk regulations tables, such as Table 21.12.040C